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A P P E A R A N C E S:

LAW OFFICE OF BRUCE BARKET
Attorneys for Plaintiff
666 Old Country Road
Suite 600
Garden City, New York 11530
BY: BRUCE BARKET, ESQ.

SUFFOLK COUNTY ATTORNEY'S OFFICE
Attorneys for Defendants
H. Lee Dennison Building
100 Veterans Highway
Hauppauge, New York 11788
BY: RICHARD DUNNE, ESQ.

ALSO PRESENT:

Daniel Wirshup

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

COPY

DANIEL WIRSHUP,

Plaintiff,

-against-

SUFFOLK COUNTY POLICE DEPARTMENT,
SUFFOLK COUNTY DISTRICT ATTORNEY,
THOMAS J. SPOTA; SUFFOLK COUNTY
DISTRICT ATTORNEY'S OFFICE, ASSISTANT
DISTRICT ATTORNEYS JANE and JOHN DOE
"I" - "S," ASSISTANT DISTRICT ATTORNEYS
KEVIN WARD, JOHN SCOTT BRIDENTI, and
CHRISTOPHER NICOLINO; DETECTIVES/POLICE
OFFICERS TOM IACOPELLI, ROBERT AMATO,
and RAYMOND FELICE, DETECTIVES/POLICE
OFFICERS JOHN and JANE DOE "I" - "S,"
and THE COUNTY OF SUFFOLK,

Defendants.

666 Old Country Road
Garden City, New York
January 12, 2007
10:10 a.m.

EXAMINATION BEFORE TRIAL of ROBERT

AMATO, one of the Defendants in the above-
entitled action, held at the above time and
place, taken before Holly Dalola, a shorthand
reporter and Notary Public of the State of
New York.

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ROBERT AMATO, the witness herein, having first been duly sworn by a Notary Public of the State of New York, was examined and testified as follows:

EXAMINATION BY

MR. BARKET:

Q. State your name for the record, please.

A. Robert Amato.

Q. State your address for the record, please.

A. 200 Center Drive, Riverhead, New York 11901.

Q. Good morning. How are you?

A. Fine.

Q. Obviously, we met before.

I'm going to ask you a series of questions. If at any point in time the question isn't clear, just say and I will try to rephrase it. If you don't indicate that the question is unclear, I'm going to assume you understood it and your answer is meant to be responsive to that question, okay?

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STIPULATIONS

IT IS HEREBY STIPULATED AND AGREED by and between the attorneys for the respective parties herein, that filing, sealing and certification be and the same are hereby waived.

IT IS FURTHER STIPULATED AND AGREED that all objections, except as to the form of the question shall be reserved to the time of the trial.

IT IS FURTHER STIPULATED AND AGREED that the within deposition may be signed and sworn to before any officer authorized to administer an oath, with the same force and effect as if signed and sworn to before the Court.

Robert Amato

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1 were in private practice, what was the date
2 of that?

3 A. Couldn't tell you. Had to be
4 sometime between 1985 and 1995.

5 Q. I take it those were the years you
6 were employed in the private sector?

7 A. Uh-huh.

8 Q. Can you tell me what the plaintiff
9 was?

10 A. No, I can't. I don't know.

11 Q. Were you a named defendant?

12 A. We pleaded in the lawsuit -- the
13 account was Burger King and it involved a
14 robbery at Burger King at which time our
15 security officer chased down and arrested the
16 subject. I believe he was suing Burger King
17 for being mishandled or mistreated or
18 something.

19 Q. The plaintiff was the person who
20 did the robbery or was the plaintiff somebody
21 who was injured in the course of the robbery,
22 the customer?

23 A. The plaintiff was the perpetrator.

24 Q. When you say "we," were you
25

Robert Amato

5

1 A. Uh-huh.

2 Q. Have you ever been deposed before?

3 A. Yes, I have.

4 Q. Could you tell me how many times
5 and under which circumstances?

6 A. Probably less than half a dozen.
7 In civil matters.

8 Q. What kind of civil matters?

9 A. One involved a lawsuit against my
10 company when I was in private practice, if
11 you will.

12 Q. Why don't we list them off and I
13 will go back if I have to ask questions.

14 A. One involves a lawsuit that I am
15 presently involved in. A civil matter
16 involving stock purchase. That's all I can
17 think of.

18 Q. That's two.

19 A. I said less than a half a dozen.

20 Q. Have you ever been to as part of
21 your employment as law enforcement officer?

22 A. Yes, but never had to give
23 deposition.

24 Q. When you say a lawsuit while you
25

Robert Amato

8

A. On that?

Q. Yes.

A. It's a minority shareholder and it involves 37 plaintiffs against the North Fork Preserves, Inc., North Fork Preserves Company, Myron Kaplan and the estate of Robert Krudop.

Q. Have you ever testified in court?

A. Yes.

Q. How many times?

A. I wouldn't even casually guess. Hundreds.

Q. I take it most of that is in connection with your employment as a law enforcement officer?

A. Yes, that's correct.

Q. Have you ever been a party of a lawsuit as either a plaintiff or defendant?

MR. DUNNE: Other than what he already communicated, right?

MR. BARKET: Yes.

A. I had been sued as a member of the service several times.

Q. I think I know what you mean. Let

Robert Amato

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individually named or a company?

A. No, the company.

Q. What was the name of the company?

A. Search Investigations, Limited.

Q. The other lawsuit or the other time you were deposed was a stock purchase you said?

A. Yes. Involves a hunting club on the North Fork which I owned a share of stock in and the majority shareholders are trying to sell the place to a developer and the minority shareholders individually and collectively brought lawsuit to stop that sale.

Q. Which side of the lawsuit do you fall on?

A. I'm in the minority shareholders.

Q. When was that deposition, do you recall?

A. October.

Q. October of 2006?

A. Yes.

Q. Can you tell me the caption of the lawsuit and the plaintiff and the defendant?

Robert Amato

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Suffolk County Police Officer.

Go ahead. Answer the

question.

A. The only that I recall, and I say less than half a dozen because there may have been one or two that I don't remember.

There was a perpetrator that robbed a jewelry store in Babylon Village. He brought a lawsuit alleging his rights issues and police brutality. That had to be sometime between 1970 and 1980. There was a couple of brothers that were doing a string of robberies that were arrested from North Amityville. They brought a lawsuit of police brutality.

Q. When was that?

A. That was probably middle '70s.

There was another fellow robbery perpetrator that made a complaint to the Italian Civil Liberties Union alleging that I called him a name. I don't remember if that ever wound up in the lawsuit.

Q. What was the name?

A. I don't remember.

Robert Amato

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me see if I can be more explicit about this.

You've been named as a defendant in lawsuits as part of your function as a law enforcement officer?

A. Yes.

Q. You said a number of times?

A. Yes.

Q. What is that number?

A. I don't know.

Q. How many is it we don't know?

A. Probably less than a half dozen.

Q. Can you list them for me starting with the most recent working your way back?

MR. DUNNE: Off the record.

(Whereupon, a discussion was held off the record.)

A. The only two that come to mind and I say less than --

MR. DUNNE: Note my objection to the line of questioning.

Just preserve it for the record regarding any case which he was a defendant while he was a

Robert Amato

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Q. Who represented you in the course of that investigation?

A. I don't know that there was any representation required. My name as mentioned because of the amount of money I made and involving a PBA card of mine that wound up in somebody's hands. No one ever spoke to me from the SIC.

Q. Did you testify before on --

A. No, I did not.

Q. Did you know Tom Iacopelli and Thomas Spota at that time?

A. At the time of the SIC? Yes.

Q. In what capacity did you know him?

A. At that time he was an ADA, assistant district attorney.

Q. Are you aware of whether or not Mr. Spota had any role in representing individuals before the State Investigation Commission?

A. No, I don't.

Q. Did you ever use Mr. Spota or any of his firms to represent you in any capacity?

Robert Amato

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Q. Was he Italian?

A. Yes. So am I.

Q. I assumed that.

Other than those two lawsuits, you don't recall any others at this time?

A. No, I don't.

Q. Have you ever been a party to any litigation beyond civil lawsuits? Have you ever been charged with a crime?

A. No.

Q. Have you ever been a party to any investigation that you're aware of, a target of any investigation?

A. My name was mentioned in a report issued by the State Investigation --

MR. DUNNE: SIC.

A. -- SIC, during their investigation of a homicide squad relative to the amount of money I made one year.

Q. Actually, I have some familiarity with the report.

Were there any accusations against you concerning your interrogation techniques?

A. No.

Robert Amato

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Q. How did you get access to the statements?

A. They are copies in which are in a book that we have.

MR. DUNNE: Right here (indicating).

Q. I gather you have those statements with you?

A. No.

MR. DUNNE: I have them.

Q. When you say "we" have them in a book, who are you referring to?

A. Myself and the other detectives involved in this investigation.

Q. The investigation is over, right?

The case is over?

A. Is that a question?

Q. Yes.

MR. DUNNE: Yes, the investigation is over, right.

MR. BARKET: I appreciate your answer.

A. That investigation is over, yes.

Q. When you say other detectives are

Robert Amato

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A. No.

Q. Prior to coming to the deposition today, did you have the opportunity to review anything?

MR. DUNNE: My objection ends at that point. Everything in between the two objections was objected to.

MR. BARKET: Thank you.

Q. (Continuing) Reviewed any documents or other materials? Have you taken a look at anything before coming to the deposition to prepare for you being deposed?

A. I reviewed some statements that we took and the purported transcript of the conversations, telephonic and in person.

Q. What statements did you review?

A. Some of the statements that were taken from some of the homeowners on Jennings Avenue and North Ocean Avenue.

Q. Could you be more specific?

A. No. I don't recall the names.

Q. When did you do the review?

A. About a week ago.

Robert Amato

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asking him is when he said "we" and he said "the other people involved in the investigation." I'm not sure what he meant by that.

Q. When you said "the other people involved in the investigation," when you said investigation, did you mean the lawsuit Wirshup versus Suffolk County Police Department and all?

A. No. I meant the investigation that we conducted under to arrest Mr. Wirshup.

Q. Okay. Who were those other people?

A. Detective Investigator Tom Iacopelli, Detective Raymond Felice, Detective Charles Bartals.

Q. In addition to those statements that you reviewed, have you had access to other documents concerning the prosecution of Mr. Wirshup, say, in last year?

A. Have I had access? Yes.

Q. How about in the last year?

A. Have I had access? Yes.

Q. Who are you currently employed by now?

Robert Amato

15

involved this in this investigation, what are you referring to?

A. The investigation that I'm here for now.

Q. Actually, and I don't want to be overly technical, but words have meanings. I want to see if we can get it right.

This is actually a lawsuit where Mr. Wirshup has sued a number of individuals as named defendants. You have been one of them you, right?

A. Yes.

Q. So there is not any investigation. This is an active lawsuit. Is that what you're referring to?

MR. DUNNE: No, that is not what he is referring to.

I think what we are doing here is a little bit of a semantic game. He is indicating that the information was obtained during the investigation is the information that he reviewed and still exists.

MR. BARKET: What I was

Robert Amato

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Q. What unit are you in?

A. At this time?

Q. Yes.

A. I'm in the major crime unit.

Q. The head of that unit is

Mr. Tartaglia?

A. Correct.

Q. The overall supervisor for all the

DA investigators is Mr. Burke?

A. Correct.

Q. When did you join this particular

unit?

A. The unit I'm in now? I guess

around November, October, no earlier,

September.

Q. What year?

A. '06.

Q. What unit were you in before that?

A. Public Integrity.

Q. Who was your immediate supervisor

at that time?

A. The supervisor at that time for us

was the assistant detective attorney, Chris

McPartland, M-C-P-A-R-T-L-A-N-D.

Robert Amato

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A. Suffolk County District Attorney's
Office.

Q. How long have you been employed by
the Suffolk DA's office?

A. Since July of 2002.

Q. What is your position?

A. I'm a detective investigator.

Q. Who do you report to?

A. My immediate supervisor is Senior
Investigator Peter Tartaglia.

Q. Does he have a supervisor within?

A. That would be Chief Investigator

James Burke.

Q. Is this commonly referred to as the
DA squad?

A. No. The DA squad is technically
the racket squad.

Q. What's the title or the name of the
entity you work for?

A. The entity I work for is the
district attorney's office. There are
several units within that of which the racket
squad is one of them. They are referred to
as the DA squad.

Corruption Bureau, at which time
Mr. McPartland was named the bureau chief.
That was subsequent to this investigation.

Q. Prior to October of '03, what unit
were you working in?

A. I worked in the Family Crime

Section.

Q. How long did you work there?

A. I guess about six months or so.

Q. Prior to that?

A. The White Collar Unit.

Q. That was supervised by Mr. Heilig?

A. That was Mr. Heilig, yes.

Q. Again, while you were working in

the White Collar Unit, I guess, that was six
months prior to October of '03, would take us
back to April '03?

A. Yes.

Q. How long did you work the White

Collar Unit, going back?

A. I started in the White Collar Unit
in July '02, probably about six, seven
months.

Q. At that time your supervisor in

Q. Was there a DA investigator in
charge of the unit or did you report directly
to the assistant district attorney?

A. We reported directly to the ADA.

Q. That assistant district attorney
had the authority to direct your professional
conduct, tell you what to investigate and so
forth?

A. Yes.

Q. He was, in all respects, your
supervisor or your boss, to be blunt about
it?

A. Yes.

Q. How long did you work under his
supervision?

A. The Public Integrity Bureau was in
existence when -- Public Integrity Unit was
in existence when I went into that unit in
October of 2003 but it was part of the White
Collar Crime Unit. The bureau chief was Ed
Heilig. At that time a task force was formed
which was co-supervised by ADA McPartland and
ADA Jeremy Scileppi, S-C-I-L-E-P-I. Then
it became it's own bureau, the Government

Robert Amato

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Q. How long did you have that job?

A. About a year.

Q. That takes us back to 1999?

A. Something like that.

Q. Were you employed at that time?

A. Well, I worked for Wausaw Insurance as a senior field investigator and they were sold at Workers' Comp. Business to Liberty which is how I wound up in Liberty. In total I was in the private insurance company for two years.

Q. How about before that?

A. New York State Insurance Frauds Bureau. I was senior investigator.

Q. How long did you have that job?

A. A little over two years.

Q. How about before that?

A. Private business.

Q. When you say "private business," what do you mean?

A. I was in business for myself, The Search Investigations, Central Alarm and Communications, Executive Security Consultants. All companies I owned and

Robert Amato

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that unit was Mr. Heilig?

A. He was a bureau chief.

Q. Was there a supervisor --

A. Yes. The investigative supervisor was Principal Investigator Pete Calabrese, C-A-L-A-B-R-E-S-E.

Q. Is he an attorney?

A. No.

Q. He was the person who controlled, directed your day-to-day activities?

A. Correct.

Q. Prior to your employment in July of 2002 with the district attorney's office, where did you work?

A. An assistant inspector general with New York State Workers' Compensation Fraud Inspector General's Office.

Q. How long did you have that job?

A. I guess about two years.

Q. Prior to that?

A. I was with Liberty Mutual/Wausaw Insurance Company.

Q. What did you do for Liberty?

A. I was a senior field investigator.

Robert Amato

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Q. Did Mr. Spota or his firm ever employ you?

A. No.

Q. Prior to these private businesses, where were you employed?

A. Suffolk County Police Department.

Q. How long did you work for Suffolk Police Department?

A. 1964 to 1985.

Q. When you left the Suffolk Police Department, what was your rank?

A. Detective first grade.

Q. What bureau were you in?

A. Homicide.

Q. How long were you in the homicide bureau?

A. I went there in '81. About four years, a little less.

Q. I want to run through the names, if I can, and I ask you if you worked while in the Suffolk County Police Department with any of these individuals: Tom Iacopelli?

A. No.

Q. Raymond Felice?

Robert Amato

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operated.

Q. Are you familiar with an entity entitled Patriot Security?

A. Yes, I am.

Q. What's that?

A. Patriot Security is a guard agency, private investigation agency and an armored car outfit.

Q. What is your involvement with them or what was it?

A. I may have worked a couple of days for Patriot -- It was called Patriot back in the early '70s -- as a store detective.

Q. Do you have any current interest in it?

A. No.

Q. When you say "private business," and you described search investigations and a few other entities, are those private investigative firms?

A. Yes.

Q. As part of your work with them, were you employed by lawyers at any time?

A. Yes.

1 Robert Amato 26

2 Q. Mr. Creighton being the former
3 police chief?

4 A. Police commissioner, yes. He was
5 the chief investigator.

6 Q. Who informed you you were employed?

7 A. Mr. Creighton.

8 Q. Did you have any contact with

9 Mr. Spota during the interviewing process?

10 A. No.

11 Q. What was the date that you were
12 told you where going to be hired?

13 A. Sometime prior to July 7, 2002 and
14 I don't know.

15 Q. What training, if any, did you
16 receive from the DA's office before you began
17 your work as an investigator for the Suffolk
18 District Attorney's Office?

19 A. I don't believe I received any
20 training.

21 Q. Once you began your employment with
22 Suffolk District Attorney's Office, did you
23 receive any training?

24 A. I have been to training schools.

25 Q. Can you describe those, please?

1 Robert Amato 25

2 A. Yes.

3 Q. Where did you work with Mr. Felice?
4 A. We never really worked together but
5 we were both detectives around the same time.

6 Q. How about Thomas Spota?

7 A. Mr. Spota, I believe, was an ADA
8 when I was in the homicide squad.

9 Q. When you say he was an assistant
10 district attorney, was he an assistant
11 district attorney that handled murder cases
12 at that time?

13 A. I believe so, yes.

14 Q. When you were hired in July of 2002
15 by the Suffolk County District Attorney's
16 Office, was there an interviewing process or
17 application process?

18 A. Yes.

19 Q. Who was it, if you know, that
20 made -- I guess Mr. Spota made the ultimate
21 decision to hire you; is that correct?

22 A. No, I don't know.

23 Q. Who did you interview with?

24 A. Robert Keaaron and Bob Creighton,
25 K-E-A-U-R-O-N and C-R-E-I-G-H-T-O-N.

Robert Amato

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A. Yes.

Q. I take it that you don't wear a uniform at all?

A. No.

Q. Do you have a badge?

A. Yes.

Q. I want to talk to you a little bit about the interview and interrogation training. When did that happen?

A. About a year ago.

Q. So sometime in the calendar year of 2006?

A. No, calendar year 2005. Near the end of the year.

Q. Where was that training?

A. Atlantic City, New Jersey.

Q. Did you have to go to school? How long was it?

A. A week.

Q. Where there classes daily?

A. Yes.

Q. How long?

A. Eight hours a day.

Q. So it would be fair to say it was

Robert Amato

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Whatever is easier for you. You can start with the most recent work and work your way back or you can start in July and work your way forward.

A. I received training in taking buccal swabs back when I was in the family crime unit during that period of time. I received training in the responsibilities of carrying a weapon on an air craft. That was while I was with White Collar Crime.

Q. Do you mean commercial aircraft?

A. Yes, FAA regulations. I received training in identification theft and credit card fraud while I was in Public Integrity Unit. I also attended a course that they sent me to regarding interview and interrogation while I was with Public Integrity. That was last year and I received firearm training every year.

Q. Do you carry a firearm as part of your duties as detective investigator?

A. Yes. We are sworn police officers.

Q. So whenever you are working you carry a gun?

Robert Amato

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during their interview and interrogation prior to and during the administration of the test and formulate the questions.

Q. Was the interview or interrogation seminar aimed at witnesses or targets?

A. Both.

Q. Buy targets I mean people you suspect being involved in a crime, whether they are arrested defendants or somebody you think committed the crime and targets?

A. Yes, that's correct.

Q. At any point, say, in the last ten years, have you taken a seminar, been given any training on an individual's rights to an attorney?

A. No.

Q. Have you been given any training at all in the last ten years or attended any seminars involving techniques for obtaining statements from less than cooperative individuals?

MR. DUNNE: I object to form.

I don't know what less than

Robert Amato

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40 hours of training?

A. Yes.

Q. The training, describe the nature of the training for me.

A. The training was -- actually, the name of the company that gave it escapes me for the moment but it was the very big polygraph company. The training was actually a revamped version of polygraph interrogation and interviewing techniques. I know that because I'm a certified polygraph examiner.

Q. If these alternatives are not right, in other words, if it is not either one of these, feel free to say something else. But was the training primarily how to interrogate somebody and use a polygraph as part of the techniques in the interrogation or was it how to conduct a polygraph exam?

A. No. It had nothing to do with polygraph which is why I say it was revamped to use as interrogation. A lot of techniques that are used in interviews and interrogations are the same kind of techniques that polygraph examiners use

Robert Amato

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about it.

There are instances where you interview witnesses and the witnesses are either victims of a crime or a witness to a crime and they are perfectly willing to speak to the police; is that fair?

A. Yes.

Q. They feel it's either their responsibility, duty or because they are, themselves, a victim, they actually want to speak to you; is that right?

A. Yes.

Q. There are other times -- and we'll kind of swing the other end of the spectrum -- individuals or defendants and that have either committed a crime or have been accused of committing a crime and don't want to speak to you initially; is that fair?

A. Correct.

Q. Within that spectrum there are individuals that would fall in various points along the line who may be somebody who is a witness but for either reasons of fear or uneasiness or just a general distrust in the

Robert Amato

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cooperative means, but answer as best you can.

THE WITNESS: Can you repeat the question?

MR. BARKET: Can you read it back?

(Whereupon, the requested portion was read by the reporter.)

Q. And actually what's most important if you understand less cooperative. If you don't understand it, then tell me.

MR. DUNNE: It's not a matter of understanding. It's almost a subjective term. I don't know what that means. You can have a different idea than he can and that was the basis of my objection. That's why I indicated answer as best you can.

Q. Do you understand the question?

A. Yes, I understand where you're going.

Q. Let me just ask a few more and maybe we can flush out what we both mean

Robert Amato

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received when I was with the insurance department in New York State Insurance Fraud Bureau, that covered that subject also.

Q. Did this training include the interrogation or interview of defendants, people who you believe had committed a crime or who had actually been charged with a crime?

A. Yes.

Q. Is there any distinction between those two, in your mind?

A. Between defendants and people being accused?

Q. No. Somebody you believe committed a crime and somebody who has been charged with committing a crime.

A. I don't understand the question.

Q. You understand there comes a point in time when somebody is formally charged with a crime they are presented in court either to a felon complaint or to a superior court on an indictment.

You're familiar with that process?

A. Yes.

Robert Amato

33

police may not want to speak to you; is that fair?

A. Yes.

Q. Maybe there are times that someone is a target of an investigation but not a named defendant yet and they also may be reluctant initially to speak with you; is that fair?

A. Yes.

Q. So in looking at that, were you at any seminars or training and dealing with individuals who did not initially want to speak to you either because out of fear or retribution of criminals or out of self-interest they were afraid to talk to the police?

A. Yes, I have.

Q. Could you describe that?

A. Well. That one seminar I went to which was given in 2005 and broached that subject, there was training I received when with I was with the inspector general's office with fraud investigation. That subject was discussed. And training I

Robert Amato

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1 go through this, if I can, the interrogation
2 techniques of individuals that are either
3 targets of your investigation or people you
4 actually think committed a crime. You said
5 you were given a number of different seminars
6 or training on them --

7 A. There are way too many scenarios
8 and we don't have time. Every individual is
9 different. Every interrogation is different.
10 Every crime is different. There are too many
11 variables.

12 Q. I'm sure there are. I'm not asking
13 about those. What I'm asking about is the
14 training you received on interrogating those
15 individuals.

16 A. The training you receive enables
17 you to recognize the different aspects of
18 each investigation of each suspect of each
19 crime and then determine from there where you
20 need to go, what type of questions you have.
21 It's really a seat of the pants thing until
22 you are sitting with someone and talking to
23 them. You don't know how they are going to
24 react, what they are going to say. So you
25

Robert Amato

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1 Q. Prior to the person being brought
2 in to court and having to answer to either a
3 felony complaint or an indictment, the person
4 is arrested ordinarily; is that right?

5 A. Yes.

6 Q. I guess prior to the arrest
7 somebody in law enforcement forms the opinion
8 that that person committed the crime; is that
9 fair?

10 A. Yes.

11 Q. I guess I'm asking if you see a
12 distinction in your mind between somebody who
13 has gone through the process of being charged
14 as opposed to somebody who has yet to be
15 formally charged.

16 A. It would depend on whether or not I
17 thought they had committed that crime.

18 Q. What do you mean by that?

19 A. If I believe that person committed
20 a crime, then I would draw no distinction
21 between that person and his state of being
22 interrogated by me and the state in which he
23 would be presented to the court.

24 Q. Could you talk about -- I want to
25

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because for some reason you turn them off.
These are not things you learn in the
classroom. You learn by doing them.

Q. I guess that's true for a lot of
endeavors. It depends on how good the person
is at doing it.

A. Exactly.

Q. For me I think of golf all the
time.

What I'm more concerned about is
you went to these seminars. These seminars
focus on interrogating a defendant, yes?

A. Some of them, yes.

Q. Those are the ones we are talking
about now. They teach you things, I assume,
right? However long the classes were, you go
to school, you go to a class, someone
lectures you and presumably they are trying
to convey information to you, right?

A. Yes.

Q. That's what I'm focussing on. I'm
not focussing on how well you do it or
somebody else does it or the spectrum of
quality of people that can do it. What I

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have to formulate each question based on what
you are learning from that person as you're
sitting there talking to them.

Q. I appreciate that and what I would
like to do is not focus so much on what you
do during your interrogation but more upon
what you were trained to do so we can go into
those seminars or training you were given on
how to interrogate an individual who is
either defendant or somebody you believe
committed the crime.

Were you given training on how to
get those people to talk to you?

A. I don't believe that that's any
science that you can define. It's up to the
individual. Some guys are great at it. Some
guys are okay at it. Some guys are terrible
at it. It's a matter of your own personality
and what you put into it, how you perceive
the crime you're investigating, how you
perceive the suspect that you are talking to
or the witness you're talking to and how they
react to you. You can sit down with somebody
for days and not give you the time of day

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Do you understand that question?

A. I do but I can't give you a table of contents as to what each individual aspect of what these courses were about without having the course outline in front of me, "A, B." I've been doing this for 41 years and a lot of the experience I have comes from the days when there were no seminars and classes and I picked up a lot by doing it.

So a lot of things I have sat in classes about I've already done or already experienced. I find that a lot of the information that is given to you at these seminars are merely cases, prior interrogation, prior interviews and how the detective or investigator reached his goal and what techniques he used in that particular interrogation involving that particular crime, that particular summit. So each instance is different.

When you say "a course of interrogation techniques," well, that's what it is a course of interrogation techniques. It's not broken down any further than that.

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would like to know is what training you received on how to do it.

So what information was conveyed to you at these seminars?

A. The information that's conveyed to you or any police officer at these seminars --

Q. Let me interrupt you for a second because the language matters a little bit. It's not being conveyed to me. I want you to be personal about this. I'm asking you specifically about the information that was conveyed to you. So if we could just maybe break it down by the training that you received --

MR. DUNNE: Just ask him what the classes were about. I think that's what you're driving at.

MR. BARKET: Well, I'm driving at a lot but I will try to do this as best I can.

Q. I want to know what was taught at these seminars on this topic.

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witness and wanted to get an account of what the witness saw, that would be his goal.

Q. How about if he was interrogating a suspect or a defendant?

A. If he was interrogating a defendant you would want to get to a point where the defendant would make admission to him or give a confession.

Q. What training have you received with respect to the installation of sidewalks?

A. Absolutely none.

Q. Do you have any background at all or any training involving pouring of concrete?

A. That's a labor I try to stay away from. No, I don't.

Q. There are times when working with one's hands is a pleasure for some of us.

A. In some instances.

Q. So is it fair to say you haven't been given any training in that at all?

A. No.

Q. How many cases have you been

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How to get a hostile witness to speak to you, how to get someone who doesn't read and write to understand what you're trying to get them to say. It's an overall thing. It's not a specific course. I can't answer that question, basically.

Q. You did a fairly good job just then.

When you say you've been doing this for 41 years, I take it you meant going back to 1964 when you came into the police department?

A. Yes.

Q. Between 1985 and, say, 2002, did you receive any trainings on changes in the law, what's permitted and not permitted in the course of interrogating suspects?

A. I would say yes, in some of those seminars listed for you that I took, that would be past 1975.

Q. One of things you mentioned in your answer was "for the detective to reach his goal." What did you mean by that?

A. Well, if he was interrogating his

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and myself.

Q. When did Detective Investigator Iacopelli begin with the district attorney's office, do you know?

A. We started about a week apart.

Q. I forget, he was one of the gentlemen you knew from the police department; is that right?

A. No, he was not.

Q. That was Felice that you knew?

A. Yes.

Q. Had you met Mr. Iacopelli prior to you coming to work at the DA's office?

A. No.

Q. Never met?

A. No.

Q. Prior to July '02?

A. No.

Q. I think I understand it but you never met prior to July '02; is that correct?

A. Correct.

Q. Who gave you the assignment?

A. It was either Jeremy Scileppi or Ed Hellig, bureau chief.

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involved with, either as primary investigator or assisting somebody else where the topic that involved, in any way, the pouring of concrete, installation of sidewalks or paving of roadways?

A. Other than this matter, I can't think of any.

Q. What was your first contact with this particular investigation, and that being the investigation that involved Daniel Wirshup?

A. In November, October of '03 I was assigned to Public Integrity Unit. That November -- we were given an assignment that November --

Q. Let me break it down, a couple of pronouns.

A. -- '02.

Q. October of '02 and November '02?

A. Right.

Q. Let me break down a couple of things.

A. When you say "we," who is "we?" Detective Investigator Iacopelli

1 Q. What were your told?

2 A. We were told, in substance, that
3 there was an investigation being conducted
4 into Patchogue Village involving contracting,
5 in fact, involving Debut Concrete and that we
6 were to hook up with Ray Felice and Charlie
7 Bartels, get briefed by them regarding what
8 they had been doing and start an
9 investigation or take a look around,
10 basically.
11

12 Q. What do you mean, "take a look
13 around?"

14 A. See what they had that we could
15 assist them with or go on our own and do an
16 investigation.

17 Q. Is this the first investigation as
18 a law enforcement official you had
19 participated in since 1985?

20 A. No.

21 Q. Right. You worked for the State
22 Insurance Company Investigation. Those were
23 all law enforcement?

24 A. All law enforcement.

25 Q. Did you meet with Mr. Felice and

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2 clear. Back up. Who is "he?"

3 A. The homeowner.

4 Q. Who is the homeowner?

5 A. His name escapes me at the moment.

6 The last name began with a "P." He was a
7 New York City Police Officer.

8 Q. Leave a blank and see if --

9 MR. DUNNE: Take a look at
10 this (handing).
11 (Witness peruses document).

12 A. Pearo.

13 MR. BARKET: You're looking
14 at a document to refresh your
15 recollection.

16 I ask you to give it to the
17 reporter to have it marked.

18 MR. DUNNE: Make a copy of
19 it (handing).

20 MR. BARKET: Mark this as
21 Plaintiff's Exhibit 1.

22 (Copy of handwritten notes
23 was marked as Plaintiff's
24 Exhibit 1 for
25 identification, as of this

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2 Mr. Bartels?

3 A. Yes.

4 Q. What did they tell you?

5 A. They informed us, in substance,
6 that they had been looking at some wage
7 issues involving Debut Concrete, and that
8 Debut Concrete -- they had been looking into,
9 Town of Brookhaven, and Debut Concrete had
10 also been doing work in Patchogue Village.

11 They had also been investigating a
12 company, LLL Asphalt, I believe is the name
13 of it. They had obtained information that
14 LLL had provided a cell phone for personal
15 use to Daniel Wirshup, who was the highway
16 supervisor in Patchogue Village. They were
17 wondering what the connection was between --
18 they were investigating a connection between
19 Wirshup and LLL and Debut Concrete.

20 They had a homeowner in Patchogue
21 Village who made a complaint concerning the
22 fact that he was bulldozed by Wirshup and
23 Debut Concrete into repairing his sidewalk in
24 front of his house.

25 Q. Again, the pronouns I want to be

Q. What did he tell you?

A. Basically that he came home from work one day and found his front yard cornered off with yellow tape and that he spoke with Daniel Wirshup -- and I believe Dan was with the gentleman who owned Debut Concrete -- and they spoke to him about doing repair work on his sidewalk. He was kind of upset because none of the people around him had to get that work done except for him. He felt that some sidewalks in his neighborhood were in as much disrepair as his were and didn't understand why they were singling him out.

Q. Was his sidewalk in disrepair, according to him?

A. I don't recall. Some of it wasn't even a sidewalk. I think he had a corner lot. I don't know if the whole thing was sidewalk or not. I never saw it so I wouldn't know.

Q. I'm just asking about what he told you. He said that some of the other --

A. There were cracks in the sidewalk,

date.)

Q. With respect to Mr. Pearo, was he a current New York City Police Officer or retired?

A. Current.

Q. According to Mr. Felice --

A. Uh-huh.

Q. -- Mr. Pearo was -- you used the term bulldozed?

A. I think bullied may have been a more appropriate term.

Q. Whatever.

A. Bullied is what I meant to say.

Q. Bulldozed I guess would be no pun intended, right?

A. Yes.

Q. Bullied into using what?

A. Debut Concrete to repair his sidewalks.

Q. Did you, yourself, speak to Mr. Pearo?

A. Eventually I did, yes.

Q. When was that, first of all?

A. I don't recall.

1 bulldozed into using Debut to fix his
2 sidewalks; and two, that there was a cell
3 phone that was given to Mr. Wirshup by LLL?

4 A. Yes.

5 Q. Did you take any steps to
6 investigate that?

7 A. They had already done that and they
8 had, I believe, obtained a printout of phone
9 calls made on the cell phone and the bills
10 attached to it.

11 Q. How did they do that?

12 A. I couldn't tell you.

13 Q. Have you ever obtained cell phone
14 records?

15 A. By subpoena.

16 Q. Did you know how they did that?

17 A. No, I don't.

18 Q. Have you ever seen a subpoena for
19 Mr. Wirshup for that particular cell phone?

20 A. No, I haven't.

21 Q. Was there an active grand jury
22 investigation at the time you entered the
23 investigation?

24 A. On their end of the investigation,
25

1 if I recall.

2 Q. The phrase "some of the other
3 sidewalks were in as much disrepair as his,"
4 it indicates that his was in disrepair.

5 Is that what you understood from
6 him?

7 A. That would be a fair assumption.

8 Q. Is that what you understood from
9 him?

10 A. Yes.

11 Q. He said he met with an individual.
12 Did he know Mr. Wirshup's name at the time
13 when you spoke to him?

14 A. When I spoke to him, yes.

15 Q. What did he tell you that
16 Mr. Wirshup said to him?

17 A. I honestly don't recall. I would
18 have to review -- I believe we took a
19 statement from him.

20 Q. Let's back up again.

21 Going back to the initial part of
22 the investigation, after you spoke with
23 Mr. Felice, you said he told one of two
24 things: One was Mr. Pearo was bullied or
25

1 my mind is a series of calls, quite a few,
2 made to a particular bar in East Patchogue in
3 the mornings. We thought initially it might
4 be part of book making operation, placing
5 bets. We didn't know what it was. That's
6 the only thing that stands out.

7 Q. What was the bar?

8 A. I think it was the Dunton Street
9 Pub or something like that.

10 Q. Was there a bookmaking operation?

11 A. Not that we could ascertain. We
12 believe the calls were made, it seemed like,
13 to a particular barmaid that was working at
14 the same time the calls were made. It may
15 have been a romantic interest.

16 Q. When you say "may have been," do
17 you have any evidence of that?

18 A. No.

19 Q. Just simple speculation?

20 A. Yes.

21 Q. After you looked at the cell phone
22 records, what was the first thing you did in
23 connection with this investigation yourself?
24

25 A. After looking at the cell phone

1 I don't know.

2 Q. You know what I mean by an active
3 grand jury, right?

4 A. Yes. There is always an active
5 grand jury but I don't know whether their
6 investigation had been presented to that.

7 Q. Was there an assistant district
8 attorney assigned to this Patchogue matter at
9 that time?

10 A. Chris Nicolino.

11 Q. Could you tell me when you first
12 met Mr. Nicolino?

13 A. I met Chris earlier on. I knew him
14 when I was working in White Collar.

15 Q. So July of '02?

16 A. Yes.

17 Q. Did you know him prior to that?

18 A. No.

19 Q. Did you review the cell phone
20 records?

21 A. Yes.

22 Q. What did you recall about that, if
23 anything?

24 A. The only thing that stands out in
25

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1 A. I don't know of any concrete being
2 poured in the Duntun Avenue Pub or any
3 sidewalk work being done there. So we
4 assumed they were personal calls. This is
5 what we were looking at. We were not
6 concerned, basically, that it was a
7 bookmaking operation or that it was a
8 romantic interest, were concerned about the
9 cost of the phone to LLL and the fact that
10 Wirshup was making personal calls on the
11 phone which was he given for purposes of
12 business.

13 Q. How did you come to learn that he
14 was given this for business?

15 A. From Ray Felice.

16 Q. When you say the bills were quite
17 high, what does that mean?

18 A. I don't know but I recall them
19 saying that the bills were high.

20 Q. What's the next thing you did?

21 A. We obtained records from Patchogue
22 Village by a subpoena concerning areas
23 because of the Pearo connection, concerning
24 areas of sidewalk work being done in the
25

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1 records, we visited the bar a few times to
2 try to ascertain who was working at the same
3 time these calls were made and try to
4 ascertain if there was, in fact, a bookmaking
5 operation. We weren't able to determine
6 anything other than the fact that a lot of
7 calls were made to that phone in that bar
8 while that particular barmaid was working.

9 Q. I didn't want to know what kind
10 of -- give you the first thing you did unless
11 that was the first thing you did.

12 A. That was one of the first things we
13 did because the bills were quite high.

14 Q. You weren't able to determine -- is
15 it fair to say there was no evidence at all
16 that there was a bookmaking operation going
17 on?

18 A. Yes, that would be fair assumption.
19 There would be concern about the fact that
20 they were obviously personal calls made on
21 the cell phone which was supposedly given to
22 Mr. Wirshup for business use.

23 Q. What made you say they were
24 personal?
25

1 connection with that investigation?

2 A. Yes.

3 Q. I know this is a little bit of a
4 tangent. I promise to come back to this.

5 Let me just talk to you about subpoenas,
6 since we are that topic.

7 What subpoenas did you deliver?

8 A. I don't recall.

9 Q. Were you given any training on how
10 to deliver subpoenas?

11 A. No.

12 Q. Were you given any training on the
13 rules in New York for service of a subpoena
14 on an individual?

15 A. No.

16 Q. What was your practice? How did
17 you deliver the subpoenas?

18 A. I delivered the subpoena to the
19 person that I was directed to deliver them
20 to. Obtain a name and identification of the
21 person I delivered to and recorded the time
22 and person I delivered to.

23 Q. Were there instances where the
24 person complied with the subpoena
25

1 Village.

2 Q. But did Mr. Pearo come to speak
3 with anyone from Suffolk DA's office, do you
4 know?

5 A. I don't know that.

6 Q. In other words, did they contact
7 him or did he call them?

8 A. I don't know.

9 Q. When you say you received by way of
10 subpoena, how was that subpoena delivered, if
11 you know?

12 A. Personally.

13 Q. Who personally delivered it?

14 A. Either Tom Iacopelli or myself, I
15 would assume.

16 Q. What kind of subpoena was it?

17 A. I don't recall.

18 Q. Do you know the difference between
19 a grand jury subpoena and a trial?

20 A. Yes. It was not a trial subpoena.

21 Q. So the only thing it would be would
22 be a grand jury subpoena, right?

23 A. I guess so.

24 Q. Did you deliver any subpoenas in
25

1 other sidewalks that were repaired in
2 Patchogue.
3

4 Let's subpoena the Town and find
5 out what else there is?

6 A. Right.

7 Q. So you talked about it with the
8 other people involved in the investigation
9 and then you decide to go ahead and get a
10 grand jury subpoena and serve it and get that
11 information?

12 A. That's correct.

13 Q. That's kind of what I meant by not
14 merely a process server but you were involved
15 in what you were looking for and what was
16 been being subpoenaed?

17 A. That's fair to say, yes.

18 Q. When you were serving subpoenas,
19 were there instances where you gave the
20 subpoena to an individual or a company and
21 you, yourself, received records or whatever
22 it was you were looking for?

23 A. In this particular matter?

24 Q. Yes.

25 A. I have gone back and taken the

1 immediately?

2 A. I don't know. There may have been.

3 Q. In other words, the subpoena, if
4 you recall, they would be delivered to the
5 person on one day for them to either appear
6 and testify or appear, testify and produce
7 documents before the grand jury; is that
8 right?

9 A. I guess, yes.

10 Q. I assume this is part of your
11 investigation.
12 Did you read the subpoenas?

13 A. Yes.

14 Q. You weren't simply a process
15 server, were you?

16 A. In some cases. I do a lot of
17 subpoena work in this job.

18 Q. Right. But the subpoenas being
19 issued are as a result of decision making
20 within the people doing the investigation; is
21 that fair?

22 A. Yes.

23 Q. In other words, the example you
24 gave is that maybe we should look at some
25

1 responding to the grand jury?

2 A. It was written right on the
3 subpoena.

4 Q. What do you mean?

5 A. That the documents requested could
6 be turned over to me, the investigating
7 detective.

8 Q. Who wrote out the subpoenas, do you
9 know?

10 A. It was typed by the secretary and
11 probably dictated by one of the ADA's.

12 Q. The actual drafting of the
13 subpoenas was not something you were
14 personally involved in?

15 A. No.

16 Q. That would have been done by the
17 attorneys involved?

18 A. Right.

19 Q. Now, getting back to the
20 investigation itself. Were there witness
21 interviews that you were asked to conduct?

22 A. Yes.

23 Q. When were you first asked to
24 interview witnesses?
25

1 items that they supplied us with personally,
2 yes. Had they been supplied to me on the
3 spot, no.

4 Q. How did that occur? How was that
5 arrangement made?

6 A. We would drop off a subpoena at
7 Village Hall and they would call us when they
8 had the documents ready to pick up and we
9 would pick them up.

10 Q. Were all the subpoenas that you
11 were involved in serving served in the
12 Village Hall, were subpoenas served on other
13 individuals or other entities?

14 A. There with subpoenas served on
15 other individuals to appear before the grand
16 jury to testify and there were subpoenas
17 served to Village Hall for records.

18 Q. How about records, was there any
19 subpoenas served anywhere besides Village
20 Hall for records?

21 A. Not that I served.

22 Q. How was it that the method for
23 compliance with a subpoena was delivery or
24 pickup by you rather than the person actually
25

1 A. We probably talked to twenty or
2 thirty people.

3 Q. Did you take statements from them?

4 A. Some of them.

5 Q. How many did you take statements
6 from?

7 A. Probably about eight or ten.

8 Q. What factors entered into the
9 decision either to obtain a written statement
10 or not?

11 A. Whether or not the witness felt
12 that they had been bullied into using Debut
13 Concrete as their contractor was a major
14 checkmark as far as whether or not we wanted
15 to get a statement, and any conversation they
16 had with the Village representatives was
17 another benchmark we used.

18 Q. Let me get a little clearer picture
19 of the number. You said between 20 and 30 --

20 A. Maybe more.

21 Q. So maybe 25 to 35 or more than
22 that?

23 A. It could have even been more. We
24 went down the entire street of Jennings
25

1 A. Well, I was not really asked to
2 interview witnesses. We were told to
3 investigate the sidewalk situation. We
4 obtained sidewalk records, determined who
5 some of the people were that were sent
6 letters to have their sidewalks replaced
7 and/or repaired and we went out and
8 interviewed those people. That's the natural
9 order.

10 Q. Who is "we"?

11 A. Tom Iacopelli and myself.

12 Q. Did you do it together or
13 individually?

14 A. Mostly together.

15 Q. How many individuals did you
16 interview with him?

17 MR. DUNNE: In what time
18 period?

19 MR. BARKET: That fell into
20 this category, the initial part of
21 the investigation. After he
22 received records back, he went out
23 and spoke to people.
24 Q. How many?

1 you said there were some sidewalks that were
2 in worse repair than others and those people
3 didn't receive letters; is that --

4 A. That's correct.

5 Q. Was there any pattern to people
6 that didn't receive letter?

7 A. No.

8 Q. Did they know Mr. Wirshup or know
9 somebody in some way that they were given
10 special treatment?

11 A. Not in every case.

12 Q. Did it appear to be a random thing,
13 some people got letters and some people
14 didn't?

15 A. That appeared to be random, yes.

16 Q. There was no discernable pattern to
17 that?

18 A. No.

19 Q. So that the 30 -- and you
20 interviewed people only who got letters; is
21 that fair?

22 A. No. We interviewed, in that
23 particular instance, the entire block.

24 Q. To see if they had letters or any
25

1 Avenue and discovered that a lot of people
2 had sidewalks in a lot worse disrepair than
3 other people who never received any
4 notification from the Village.

5 Q. That kind of sounds like the person
6 who gets caught doing 70 in a 55, doesn't it?

7 A. Exactly.

8 Q. Somebody else passing me going 75
9 is not really an excuse, is it?

10 A. Exactly.

11 Q. You can't get everybody, can you?
12 MR. DUNNE: You're asking
13 the wrong guy.

14 MR. BARKET: I'm kind of
15 making a joke out of it.

16 Q. But in all seriousness, code
17 enforcement in a local village is, to some
18 degree, the same in law enforcement. You do
19 what you can do.

20 There are limits on manpower and
21 hours and resources, fair?

22 MR. DUNNE: Objection.
23 Absolutely objection.

24 Q. In the course of your investigation
25

1 didn't?

2 A. We spoke to everybody on the block.

3 Q. All at once?

4 A. Not at once.

5 Q. Over how long a period of time?

6 A. Probably a few weeks.

7 Q. So when you went out on day one and
8 you talked to how many people you talked to
9 then, did you keep a record of who you spoke
10 to and who you had left to speak to?

11 A. At that time, yes.

12 Q. Does that record still exist?

13 A. I don't know. Possibly. I don't
14 know.

15 Q. In the course of your training as a
16 police officer and detective and
17 investigator, are you trained in retention of
18 police reports and notes and things like
19 that?

20 A. Yes.

21 Q. If I said to you "Rosario," what
22 would that mean to you?

23 A. Material matters available to
24 defense.
25

1 contact?

2 A. Exactly.

3 Q. So to look at the numbers -- the
4 floor of the number of people you interviewed
5 were the people who got letters?

6 A. Yes.

7 Q. Did you interview everybody who got
8 a letter?

9 A. I believe so.

10 Q. Do you keep a record of that?

11 A. Possibly.

12 Q. In other words, if you're dealing
13 with thirty or forty people, there must have
14 been -- well, was there some method to
15 determine who you interviewed, who you
16 didn't, what they told you?

17 A. We tried to keep it to an area
18 without getting too far spread out. So we
19 concentrated on the Jennings Avenue area.

20 Q. I gather that from before. But
21 when you're dealing with several dozen
22 individuals, I'm asking you if there was some
23 method that you and Mr. Iacopelli used to
24 determine who you spoke to and who you
25

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to determine the exact number, but that's fine for now.

All of the people that you

interviewed who received letters, would it be fair to say that their reaction to receiving letters was an annoyance, at least?

MR. DUNNE: Objection to

form.

Try to answer that as best

you can.

A. I would say annoyance was one.

Q. Common --

A. One of the common threads for each one.

Q. Not terribly complicated to see?

A. No.

Q. A homeowner got a letter from the Town that says you have to spend money on your sidewalk. That's not a letter that any homeowner wants to receive.

A. Correct.

Q. Most of the homeowners you spoke to were displeased, at the very least, with receiving that kind of letter?

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Q. You said you testified hundreds of times. When you're testifying in those instances, before you testify, the individual attorney is given all of your notes and reports concerning the subject matter of your testimony; is that right?

A. That's right.

Q. You learned over the course of your duties and responsibilities as a police officer that you're supposed to preserve this material just for this purpose, right?

A. Yes.

Q. So you know that if you're creating reports or taking statements or doing things, you don't destroy those because those are subject to discovery if there is a criminal prosecution?

A. Correct.

Q. You said you took statements from eight to ten people?

A. Probably. I would say probably at least eight to ten.

Q. At some point we will go through the statements one by one and we will be able

1 using Debut.

2 Q. Who was that individual?

3 A. Mr. Raffat (phonetic).

4 Q. When you say "backlash," who was
5 yielding or wielding the lash?

6 A. That would have been Mr. Wirshup.

7 Q. In what ways that you recall would
8 the backlash manifest itself?

9 A. I do recall something about some
10 trees which he had growing out by his curb
11 line, that there was some complaint about it.
12 Also, while he was having the work done there
13 was a complaint about the torn up concrete
14 and how it was being stored on his property
15 and things like that.

16 Q. Did you investigate those
17 complaints about the backlash?

18 A. Other than to make notes of them,
19 no, because there was no ticket given or
20 summonses or anything like that.

21 Q. Were the things complained of or
22 did you investigate whether or not things
23 complained of were actual violations of some
24 ordinance or an ordinance, I should say?

1 A. Yes.

2 Q. A number of these homeowners, I
3 take it, actually went ahead and had his
4 sidewalk repaired, is that fair?

5 A. Yes.

6 Q. How many?

7 A. Everyone we took a statement from
8 and probably one or two others.

9 Q. Of those people, how many used
10 Debut?

11 A. All but one, I believe.

12 Q. The one who didn't, who did that
13 person use?

14 A. Used another contractor. I don't
15 know.

16 Q. Was there any difficulties that
17 person experienced following their repair of
18 the sidewalk with a different contractor?

19 A. He claimed there was quite a bit of
20 difficulty.

21 Q. In what way?

22 A. He had trees on his property that I
23 think he wanted removed. There was what
24 appeared to be some kind of backlash for not
25

Robert Amato

1 What I want to do is ask you a
2
3 little bit about the relationship between
4 Mr. Wirshup and Debut. From what I gather
5 from what you're saying is that you were
6 looking into whether or not Mr. Wirshup was
7 improperly sending business -- generating
8 bids for Debut, steering business; is that
9 what you're saying?

10 A. Yes.

11 Q. Is that right?

12 A. Yes.

13 Q. You didn't think that Mr. Wirshup
14 was doing this, if he was doing it at all was
15 doing it out of the goodness of his heart or
16 some admiration or love he had for Debut?

17 A. No.

18 Q. You thought that if he was doing
19 this he was doing it for some illegal payback
20 to himself; is that right?

21 A. Or he was doing it under orders
22 from someone else.

23 Q. Or orders from somebody else?

24 A. Right.

25 Q. On that end, what did you perceive

Robert Amato

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1 A. No, because they were not existing
2 at the time we spoke to Mr. Raffat and there
3 was no record of him being given a summons or
4 anything.

5 Q. When you say they were nonexistent,
6 do you mean there was no ordinance or the
7 conditions that were complained of were no
8 longer visible?
9

10 A. Conditions that he complained about
11 were no longer there.

12 Q. Did you take some time to look at
13 the town ordinance to see whether or not
14 there was some code concerning trees or
15 concerning the storage of concrete?

16 A. No.

17 Q. Did anybody?

18 A. I didn't.

19 Q. Did not?

20 A. Did not.

21 Q. Did anybody?

22 A. I don't know.

23 Q. I will come back to the individual
24 when we have all the statements and we go
25 through those in some detail.

investigators who form an opinion sometimes based upon -- I don't mean to slight this in any way -- instinct or intuition or experience, but what I want to get at, was that opinion based on -- and I don't say mere, but instinct or intuition or was it based on some facts?

A. Early in the investigation there weren't very many facts other than the fact that in our opinion, Dan Wirshup was steering Debut customers to Debut Concrete but we didn't know why.

Q. Did your opinion change over the course of the investigation?

A. During the course of the investigation I learned that Dan Wirshup's son worked for Debut Concrete. I guess you could say that could be a quid pro quo, particularly based on what kind of job the kid had, whether it was a no show job or not. I never personally investigated that angle of it. My opinion remained pretty much the same, that he was being directed by Keegan to do these things.

as his motive?

A. At what time?

Q. At that point in time you began this investigation and you're talking to these people who are telling you they were, in one way or another, asked to or bullied into -- whatever the phrase is -- into using Debut.

A. In the very beginning I actually believed that Mr. Wirshup was doing that on orders from higher up.

Q. Who were the orders coming from?

A. The mayor of the village, Steve Keegan.

Q. What lead you to that opinion, why did you hold that opinion?

A. There was always the possibility Mr. Wirshup was taking an envelope from Debut Concrete for steering them but I felt personally the likelihood because of the fact that he was given this job by Steve Keegan that he was probably doing what Keegan asked him to do.

Q. I respect the opinion and I respect

1 A. It was probably --

2 Q. Let me ask the question.

3 Was it before or after Mr. Wirshup
4 was arraigned on the indictment?

5 A. Yes.

6 Q. Which?

7 A. Before, well before.

8 Q. Before or after your first meeting
9 with Mr. Wirshup?

10 A. It was after.

11 Q. You started to say -- narrow down
12 the time somewhat and I kind of cut you off.
13 So let me let you finish that.

14 A. It was definitely before we started
15 taking statements from the witnesses.

16 Q. What crime did you believe he
17 committed?

18 A. I believe we could have come up
19 with grand larceny connecting in concert with
20 Debut Concrete.

21 Q. Did you discuss this opinion with
22 anybody else in the investigation?

23 A. Yes.

24 Q. Who?

1 Q. Remained the same today?

2 A. Yes.

3 Q. Did you come -- at any point in
4 time, did you come to believe that
5 Mr. Wirshup committed a violation of any
6 criminal law?

7 A. Oh, yes.

8 Q. When did that opinion form?

9 A. When we discovered invoices that
10 were signed out on by Wirshup approving work
11 done by Debut Concrete that was insufficient
12 and not according to code, and billing for
13 material that was obviously never used and
14 probably for time that was probably never
15 expended.

16 Q. When did you learn this?

17 A. As soon as we started getting the
18 copies of the bills submitted by Debut and
19 the sheets that Wirshup signed off on.

20 Q. When did that occur in terms of
21 time?

22 A. I don't know.

23 Q. You said it was in terms of events.
24 Was it before or after --
25

Robert Amato

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A. Yes.

Q. Before I was asking you about some of your supervisors. You indicated that people you reported directly to were actually assistant district attorneys?

A. Yes.

Q. Was Mr. Prudenti one of those individuals?

A. Yes.

Q. In the course of this particular investigation?

A. Yes.

Q. When did he take on that role?

A. It would be about the time that we started doing these interviews on Jennings Avenue.

Q. Was that before or after your first contact with Mr. Wirshup?

A. That was before.

Q. When was your first contact with Mr. Wirshup?

A. I believe it was in February, February 6th.

Q. You read off, I think what was

Robert Amato

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A. My partner, Tom Iacopelli, and the district attorneys assigned to the case, Chris Nicolino and John Scott Prudenti.

Q. What was Mr. Prudenti's role?

A. After the initial assignment of the investigation and we worked with Nicolino and Bartels and Felice to find out what they had in Brookhaven when we started to get further into Patchogue Village and start to subpoena these records, we started to work with Mr. Prudenti.

Q. In what capacity?

A. He would have been the person to whom we reported.

Q. So Mr. Prudenti, we all know -- let the record reflect he is and was an assistant district attorney?

A. Yes.

Q. Worked for Suffolk County DA's office?

A. Yes.

Q. He was, at some point in the investigation, assigned to supervise this investigation, is that fair?

Robert Amato

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the district attorney's office?

A. No.

Q. Was Mr. Iacopelli?

A. No.

Q. When did Mr. Prudenti -- and sometime after this Mr. Prudenti entered the investigation?

A. Actually around this time, just before we ran into Dan, Mr. Wirshup.

Q. Did you know whether or not Mr. Wirshup was represented by counsel?

A. Yes.

Q. What did you understand?

A. I understood he was represented by Mr. O'Connell.

Q. How did you learn that?

A. I believe that that was information given to us by the team of Prudenti, Nicolino, Felice and Bartels.

Q. Who was in charge of the investigation, was it Prudenti or Nicolino?

A. I don't know.

Q. Did there appear to be any hierarchy between the two of them or did they

Robert Amato

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marked as --

MR. DUNNE: Defendant's

Exhibit K at Mr. Wirshup's deposition, going by the dates that were prepared from transcripts that actually the plaintiff prepared. So assuming those dates are correct, that's the reference point referred to.

Q. Am I right that you looked over Defendant's Exhibit K to give me the date of your first contact with Mr. Wirshup?

A. Yes.

Q. You're assuming that the date on there, February 2nd, is correct?

A. Yes.

Q. You met him or saw him at a coffee store or 7-Eleven or something?

A. We ran into him at 7-Eleven, yes.

Q. How did you know who he was?

A. We had seen a photograph of him.

Q. Had you met with him before that?

A. No.

Q. Were you at a meeting with him at

1 larceny?

2 A. There were some crimes involving
3 his position as a public servant I believe he
4 may have violated.

5 Q. What are those?

6 A. Offhand, I don't recall the exact
7 term.

8 Q. Is there anything that you can look
9 at to refresh your memory?

10 A. Penal law.

11 MR. DUNNE: Were you asking
12 him a specific penal law section
13 that he believed he violated?

14 MR. BARKET: He can describe
15 it any way he wants.

16 A. I believe he violated public trust
17 in his position by doing the act.

18 Q. Well, violating public trust is --

19 A. My term.

20 Q. Right. I'm not sure that is always
21 a crime.

22 What crimes did you believe he --

23 A. Offhand, I would have to look.

24 MR. BARKET: Let's leave a
25

1 work as a team?

2 A. Nicolino was deputy bureau chief.
3 I would assume he would have been.

4 Q. He actually had a position where he
5 was supervising Mr. Prudenti?

6 A. I would say.

7 Q. Would it be fair to say
8 Mr. Nicolino was supervisor and Mr. Prudenti
9 was a hands-on assistant?

10 MR. DUNNE: Objection to
11 form.

12 If I'm understanding, this
13 is from your perspective.

14 A. The way I saw it, that would have
15 been the case, yes.

16 Q. You received direction from each of
17 them, yes?

18 A. Yes.

19 Q. I'm talking in the course of this
20 investigation.

21 A. Yes.

22 Q. Getting back to the charges. Were
23 there any other crimes that you believe
24 Mr. Wirshup had committed, besides grand
25

1 constitute any crime, in your view?

2 A. That in and of itself, no.

3 Q. Did they investigate further

4 Mr. Wirshup's son's employment?

5 A. I can't go into what they did or
6 didn't do. I don't know.

7 Q. You actually are permitted. The
8 whole hearsay thing doesn't apply.

9 A. But I don't know.

10 MR. DUNNE: Even if it's
11 hearsay or not.

12 MR. BARKET: He needs to
13 know it.

14 Q. I don't want you to guess. This
15 was an investigation you all were doing
16 together. I want to know whether or not you
17 knew what was going on there?

18 A. I believe you asked, I answered.
19 They determined that his son received a
20 paycheck from Debut Concrete.

21 Q. Did they, to your knowledge,
22 determine whether or not his son worked,
23 actually performed labor?

24 A. That I don't know.

1 blank spot there and you can feel
2 free to look that up and put in an
3 answer at a later point in time.

4 (INSERT):

5 Q. You said that his son worked for --
6 Mr. Wirshup's son worked for Debut for some
7 period of time; is that right?

8 A. That's what we were told, yes.

9 Q. Did you investigate that?

10 A. No.

11 Q. Did anyone investigate it?

12 A. I didn't.

13 Q. Did anyone else?

14 A. I would have to answer I assume the
15 people that advised us of the information
16 investigated it.

17 Q. Who advised you?

18 A. Charlie Bartels and Ray Felice.

19 Q. Do you know what the results of
20 that investigation were?

21 A. I understand that they were able to
22 show that he had employment or at least
23 paychecks coming from Debut Concrete.

24 Q. Did that, in and of itself,
25

Robert Amato

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Mayor of Patchogue and I think that he may have steered business to Debut because he was told to do so by the person that gave him the job.

Q. Are you aware of the structure of the town of Patchogue at that time, the political structure?

A. Somewhat, yes.

Q. The mayor you said was Keegan?

A. Uh-huh.

Q. When was he elected?

A. I don't know.

Q. When was Mr. Wirshup hired?

A. I don't know.

Q. Who hired him?

A. Steve Keegan.

Q. Was it a political appointment or was it a civil service job?

A. It was a civil service job but was a political appointment.

Q. Was there any approval necessary from any other political or entity or individual for the appointment?

A. I don't know.

Robert Amato

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Q. From what period of time did his son work for Debut?

A. Couldn't tell you.

Q. Did you ever interview his son?

A. No.

Q. Did anyone?

A. I didn't.

Q. I gather that --

A. And I don't know of anyone who did.

Q. Other than his son's employment, are you aware of anything that Mr. Wirshup received that could be viewed as a reward of payment, consideration for steering business to Debut?

A. Well, he was given a very good job by the Mayor of Patchogue and perhaps, in my view, in return for that he was doing what the mayor asked him to do, which was to steer work to Debut Concrete.

Q. The very job he had you viewed as he was given that job in order to steer work to Debut?

A. That's not what I said. What I said was he was given a very good job by the

2000, something like that.

Q. Other than his very position and his son's job, were there any other facts indicating that Mr. Wirshup received some benefit for steering this work to Debut, if that is, in fact, what he was doing?

A. The evidence that we uncovered was that he was approving bills to be paid by the Village of Patchogue to Debut Concrete for work that was not performed.

Q. Right. But leaving aside all the issues surrounding the approval of those bills and assuming everything that you said that it was for work not done, that it was improper, whatever, what did Mr. Wirshup get out of it, other than the two things that you listed which are the employment and his son's job, that you know of?

A. That I know of, nothing.

Q. Did you investigate his own finances, Mr. Worship's finances?

A. To a certain degree.

Q. Have you done these kinds of investigations before, where there had been

Q. I think I asked you, when did he start his employment, Mr. Wirshup?

A. I don't know.

Q. You don't know when Mr. Keegan was elected?

A. No, I don't know.

Q. Was he the mayor in 2002 and 2003?

A. No.

Q. Who was mayor at that time?

A. I don't recall his name.

Q. What was the time period for when this steering took place?

A. I don't know, I would have to review the statements.

Q. Could you give us an estimation?

A. No.

Q. Was it in this millennium, since 2000 on or was it in the 1990s?

A. I would say in this millennium, yes.

Q. Do you know when Mayor Keegan left office?

A. No, I don't. I don't recall the year. I will only be guessing. Maybe '01 or

lodge probably.

Q. What was the value of that?

A. I don't know.

Q. The boat?

A. Small boat, fishing boat.

Q. Approximate value?

A. Couldn't tell you. Never saw it.

Q. Anything else?

A. No.

Q. In your view, did this small boat and hunting lodge indicate that he was living beyond his apparent means?

A. No.

Q. How about his home?

A. Modest home.

Q. How about how he spent his money?

A. Modestly.

Q. Is there anything about his lifestyle that indicated that he was receiving -- well, that he was living beyond his means?

A. No, not that I could see.

MR. BARKET: We'll stop now.

I indicated before that I have to

bribes or kickbacks or illegal payments made to people?

A. Some.

Q. When you say "some," in what capacity?

A. As a police officer.

Q. Back in 1995?

A. Yes. And some in private practice.

Not a lot.

Q. When you say you did some investigation of his finances, what did you do?

A. We took a look at how he lived and what kind of home he was living in, where he went, and asked questions about him. How he spent his money, that type of thing. We didn't run a credit report or anything like that.

Q. What did you find?

A. That he had a place Upstate. He had a boat. That was about it.

Q. When you say "a place Upstate," what are you referring to?

A. I guess a small cabin. Hunting

I N D E XWITNESSEXAMINATION BYPAGE

Robert Amato

Mr. Barket

4

PLAINTIFF'SEXHIBITSPAGE

1 Copy of handwritten notes

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DESCRIPTIONINSERTSPAGEOther crimes believed to have been
committed by Mr. Wirsnap

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Robert Amato

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go to the hospital with my wife
this afternoon. She is having a
procedure, so I need to take a
break.

MR. DUNNE: I certainly
don't object to that. I understand
the circumstances.

-000-

(Whereupon, the examination
of Robert Amato was concluded at
11:53 a.m.)

ROBERT AMATO

Subscribed and sworn to
before me this _____ day
of _____, 2007.

NOTARY PUBLIC

C E R T I F I C A T E

I, HOLLY DALOIA, a Notary Public
within and for the State of New York, do
hereby certify:

That the witness(es) whose testimony
is hereinbefore set forth was duly sworn by
me, and the foregoing transcript is a true
record of the testimony given by such
witness(es).

I further certify that I am not
related to any of the parties to this action
by blood or marriage, and that I am in no way
interested in the outcome of this matter.



HOLLY DALOIA

A P P E A R A N C E S:

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Garden City, New York 11530
BY: BRUCE BARKET, ESQ.

SUFFOLK COUNTY ATTORNEY'S OFFICE
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BY: RICHARD DUNNE, ESQ.

ALSO PRESENT:

Daniel Wirshup
Tom Iacopelli

COPY

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

DANIEL WIRSHUP,

Plaintiff,

-against-

SUFFOLK COUNTY POLICE DEPARTMENT,
SUFFOLK COUNTY DISTRICT ATTORNEY,
THOMAS J. SPOTA; SUFFOLK COUNTY
DISTRICT ATTORNEY'S OFFICE,
ASSISTANT DISTRICT ATTORNEYS JANE and
JOHN DOE "I" - "S;" ASSISTANT DISTRICT
ATTORNEYS KEVIN WARD, JOHN SCOTT PRUDENTI,
and CHRISTOPHER NICOLINO; DETECTIVES/
POLICE OFFICERS TOM IACOPELLI,
ROBERT AMATO, and RAYMOND FELICE,
DETECTIVES/POLICE OFFICERS JOHN and
JANE DOE "I" - "S," and THE COUNTY OF
SUFFOLK,

Defendants.

666 Old Country Road
Garden City, New York
January 19, 2007
2:21 p.m.

CONTINUED EXAMINATION BEFORE TRIAL

from JANUARY 12, 2007 of ROBERT AMATO, one of
the Defendants in the above-entitled action,
held at the above time and place, taken
before Holly Daloia, a shorthand reporter and
Notary Public of the State of New York.

1 R O B E R T A M A T O,
2 the witness herein, having first
3 been duly sworn by a Notary Public
4 of the State of New York, was
5 examined and testified as follows:

EXAMINATION BY

MR. BARKET:

8 Q. Please state your name for the
9 record.
10 A. Robert Amato.

11 Q. Please state your address for the
12 record.
13 A. 200 Center Drive, Riverhead,
14 New York 11301.

15 Q. One of the questions I wanted to
16 ask was, did you testify in the Grand Jury?
17 A. No.

18 Q. Did you serve Grand Jury subpoenas
19 on witnesses?
20 A. Yes.

21 Q. Did you serve Grand Jury subpoenas?
22 A. Yes.
23 Q. Did you keep a record of the
24 subpoenas that you served?

S T I P U L A T I O N S

1 IT IS HEREBY STIPULATED AND AGREED
2 by and between the attorneys for the
3 respective parties herein, that filing,
4 sealing and certification be and the
5 same are hereby waived.

6 IT IS FURTHER STIPULATED AND AGREED
7 that all objections, except as to the
8 form of the question shall be reserved
9 to the time of the trial.

10 IT IS FURTHER STIPULATED AND AGREED
11 that the within deposition may be signed
12 and sworn to before any officer authorized
13 to administer an oath, with the same force
14 and effect as if signed and sworn to before
15 the Court and that a copy of this
16 examination shall be furnished without
17 charge to the attorney representing the
18 witness testifying herein.

Robert Amato 100

MR. BARKET: Could I ask
that it be produced?

MR. DUNNE: Put that in
writing and I will take that under
advisement.

At some point, I assume
you're going to serve a demand of
some sort. Remember, I mentioned
last week that we should have, even
if it's an informal letter, just so
we can crossmatch what the
exchanges are because I did not
take material last week.
Q. In addition to the reporter's pad,
did you keep any other notes?

A. I don't believe so, no.

Q. Did you fill out any forms for the
district attorney's office or the police
department?

A. I don't recall making any official
report.

Q. So the status of this investigation
was kept in a reporter's pad or on a
reporter's pad?

Robert Amato 99

MR. DUNNE: You mean other
than a copy of the subpoena itself?
MR. BARKET: Any record.

A. Probably made a notation somewhere,
served a particular subpoena.

Q. A notation in a calendar in a
diary?

A. Probably in a note pad.

Q. Did you keep a set of notes
concerning this particular investigation?

A. Yes.

Q. What form was that?

A. In a reporter's pad.

Q. A reporter's pad is one of those
pads with the very tight metal rings at the
top?

A. Correct.

Q. Did you label it, the pad?

A. Yes.

Q. What was the title of it, the name?
A. The pad had several cases in it. I
don't recall what they were.

Q. Do you still have that?

A. I believe so.

Robert Amato

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Q. You were free to keep notes or not keep notes at your leisure?

A. Yes.

Q. Getting back to where I started with this, the subpoenas, when you say you would have made a notation somewhere, I guess the only place the notation could have been made was in that pad, that's the only report you had?

A. Correct.

Q. How many reporter's pads or notebooks were there for this investigation?

A. I believe just one.

Q. Just one?

A. Yes.

Q. By the way, do we have -- the gentleman sitting to the left of Mr. Dunne, your lawyer, is?

A. You're asking me?

Q. Yes. You're the only person I can ask.

A. Thomas Iacopelli.

Q. He is one of the other named defendants in the lawsuit, is that right?

Robert Amato

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A. In my particular instance, yes.

Q. Who maintained possession of that pad during the course of investigation?

A. I did.

Q. Has it been in your exclusive possession since you created it?

A. Yes.

Q. Where did you keep it?

A. In my office.

Q. In the district attorney's office?

A. Yes.

Q. Were you trained on how to -- by the district attorney how to keep records of status of investigations?

A. By the district attorney, no.

Q. Were there any guidelines in place about what reports or notes you should keep by Suffolk District Attorney's Office during the course of this investigation?

A. No.

Q. The record keeping for all investigation was discretionary to the individual investigator?

A. Yes.

1 A. Yes.

2 Q. Is that correct?

3 A. Yes.

4 Q. What's that name?

5 A. He is a plumber.

6 Q. How do you know him?

7 A. We interviewed Mr. Sharvelle
8 regarding another matter that we were
9 investigating in Patchogue.
10

11 Q. Was that matter precluded?

12 A. Yes.

13 Q. What was the nature of the
14 investigation?

15 MR. DUNNE: Objection, but
16 go ahead and answer.

17 Preserve the record.

18 A. My recollection is that it
19 concerned storm drains that were installed
20 somewhere in the Village.

21 Q. To your knowledge, did
22 Mr. Sharvelle know Mr. Wirshup?

23 A. I believe so, yes.

24 Q. Did you ever have a conversation
25 with Mr. Sharvelle about Mr. Wirshup?

1 A. Yes.

2 Q. Did you still work with him?

3 A. No.

4 Q. Who has moved on?

5 A. I have.

6 Q. What do you do now?

7 A. I work in the major crime bureau.

8 Q. But you're still employed by the
9 district attorney's office?

10 A. Yes.

11 Q. And so is he?

12 A. Yes.

13 Q. But you just don't work in the same
14 unit together?

15 A. Correct, yes.

16 Q. Do you share office space? Are you
17 in the same office?

18 A. No.

19 Q. The same town?

20 A. Nope.

21 Q. Do you still like him?

22 A. Yes, I do.

23 Q. The name Renee Sharvelle -- did I
24 say that correctly?
25

A. Yes.

Q. What do you know about him?

A. He used to be an assistant district attorney.

Q. How do you know him?

A. From his employment and mine.

Q. In other words, his employment at the district attorney's office?

A. Yes.

Q. When did he work there?

A. Probably the early '80s.

Q. You knew him while you were a police officer in Suffolk County?

A. Yes.

Q. So you knew him for about 20 years?

A. I hadn't seen him or talked to him in quite a while. I guess you can say I've known him for 20 years.

Q. I want to ask you about

Mr. Wirshup's lawyer. Do you know him?

A. Which one?

Q. No me. The one he had in the criminal case.

A. O'Connell?

A. I would say yes.

Q. What was the nature of those conversations?

A. Just inquire if he knew

Mr. Wirshup.

Q. When he said yes, then you said, "That's nice to know," and that was the end of it?

A. I don't recall the exact words. I probably would have inquired as his opinion of Mr. Wirshup.

Q. Do you remember what that opinion was?

A. As I recall, he spoke very highly of Mr. Wirshup.

Q. Who was Mr. Sharvelle's lawyer?

A. The only attorney that I am aware of that Mr. Sharvelle had was --

Q. Timothy Maize?

A. Yes.

Q. Timothy Maize, do you know who he is?

A. Yes.

Q. Do you know him personally?

1 A. Yes.

2 Q. Do you remember when that was?

3 A. February '02.

4 MR. DUNNE: Just refresh
5 your recollection (handing).
6

7 A. (Witness peruses document).
8 February '03.

9 Q. You're looking at something
10 previously marked as Defendants' Exhibit K
11 which is a transcript provided -- where did
12 that come from anyway, that transcript?

13 A. That was something that was put
14 together by Mr. Wirshup.

15 Q. Right. When was it given to you?
16 A. Sometime after the tape was
17 delivered to the district attorney's office.

18 Q. With respect to that particular
19 transcript, not the original photocopy but
20 the actual paper Defendants' K is on, that
21 item itself, do you understand the
22 distinction that I'm drawing?

23 A. No.

24 Q. What I'm going to ask about is, I
25 want to know when it is that you viewed this

1 Q. Yes.

2 A. Yes.

3 Q. How did you know him?

4 A. Never knew him before this case.

5 Q. Did you meet him during the course
6 of your investigation?

7 A. No.

8 Q. Did you ever have any conversations
9 about him with anybody?

10 A. Yes.

11 Q. Who?

12 A. My partner, Detective Iacopelli,
13 Detective Ray Felice, Detective Charlie
14 Vartells, Chris Nicolino, John Scott
15 Prudenti, Jeremy Scileppi, the Bureau Chief
16 Ed Heilig, and possibly some others, I don't
17 recall.

18 Q. I want to focus your attention, if
19 I can, to the time period before Mr. Wirshup
20 was indicted. There came a point in time
21 where you met with him or spoke with him
22 outside of a coffee shop or 7-Eleven?

23 A. Mr. O'Connell?

24 Q. I'm sorry, Mr. Wirshup.

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me or I give it to him.

Q. At some point prior to Mr Wirshup's deposition, you viewed a copy of this transcript?

A. Yes.

Q. Whether it was this document or a copy of it?

A. I don't know.

Q. But either/or, correct?

A. Either/or, yes.

MR. DUNNE: Just before we go further, I don't have any problem referring to this transcript, but this document was prepared by your client. I'm fully willing to call it a transcript for purposes of our examination. There are many, many items we will take issue with having compared with the tape, but for our purposes of this examination, this document we can refer to it as a transcript.

I'm just saying, just because we are referring to that,

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piece of paper. Not a copy of the transcript, not the original, but the very piece of paper marked as Defendants' Exhibit K.

A. I honestly can't give you a definitive answer on that.

Q. In the course of your preparation for your testimony, I think I asked if you reviewed some documents and I think you said you reviewed some transcripts; is that right?

A. Correct.

Q. Is one of the items you reviewed Defendants' Exhibit K?

A. It may have been or it may have been a transcript that was made up by someone else. I don't know. I can't say that it was this particular transcript on this particular paper, no.

Q. In preparing for your deposition or in preparing for Mr. Wirshup's deposition, did you produce anything for your lawyer?

In other words, did you give your lawyer a copy of the transcript?

A. I don't know whether he gave it to

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bottom. Do you see that?

A. Uh-hum.

Q. What's the printing at the bottom of that?

A. There's a date, time reference to major crime, a number and a page.

Q. What's the date?

A. July 25, 2006.

Q. And the time?

A. 11:43 a.m.

Q. And major crime?

A. Major crime.

Q. Is that the unit you said you're now assigned to?

A. That's correct.

Q. Then there is a number?

A. 774, Page 2.

Q. Is there a fax machine on your unit?

A. Yes, there is.

Q. When things are faxed from there, does it print out "major crime" like that?

A. I don't remember whether it prints out when you receive a fax, when you send a

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we are not adopting this particular interpretation and, in fact, at some point, that in all likelihood will prepare our own.

There are a lot of things that are in these documents that are not in the tape. So the mere use of this in the course of what they may have used in preparation of the deposition, I'm not adopting that this is an accurate transcript, but I have no objection to calling it a transcript for purposes of the examination.

In other words, by virtue of just talking about, I'm not ascribing that that's accurate. Yes, they may have reviewed it, which you're going to explore, but the mere fact that they reviewed it does not make it accurate and I want to make that clear.

Q. Take a look at this. If I turn it upside down there is some printing on the

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Q. Do you recognize this span at the bottom of the page for major crime?

A. No, not particularly.

MR. DUNNE: These are my copies (handing).

MR. BARKET: These aren't marked?

MR. DUNNE: I marked the entire packet Exhibit K and I think we indicated and went through and put the dates on all of them.

Q. The first page of 23 -- when we say transcript, actually, on the one marked 2/6 of '03, that's actually typed out as if it's a transcript, but did you ever hear of a corresponding tape for that date?

A. No.

Q. As far as you know, no tape exists for that date, correct?

A. As far as I know.

Q. The meeting in February of '03 was not a planned meeting, was it?

A. No, it was not.

Q. Where did that meeting take place?

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fax, I really don't know.

Q. In other words, if you were to take a document and fax it from your unit to someplace else -- let me just back up. You're familiar with fax machines, right?

A. Somewhat. How to work them, yes.

Q. We are not going to ask you to build one but you know when you get a fax typically what happens is at the top and the bottom of the page there is a date and time as the fax comes through, right?

A. Sometimes, I guess on some machines when it comes through you get the date and time from the person that sent it and sometimes, possibly, when you send one out it may put the date and time from your machine on it. I'm not sure how that works. I'm not an expert on fax machines.

Q. Does that help at all in determining whether or not this document was faxed from your office?

A. No.

Q. Or to your office in July 2006?

A. No.

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Q. When you saw Mr. Wirshup you said, "Hello, Mr. Wirshup?"

A. No, I didn't say anything.

Q. Who said what to whom first?

A. I was introduced to Mr. Wirshup by my partner, Tom Iacopelli.

Q. How did Mr. Wirshup learn of your presence, "you" being you or your partner?

A. Mr. Iacopelli.

Q. What did Mr. Iacopelli say to Mr. Wirshup?

A. Don't have a clue.

Q. Did he say -- you don't remember or you didn't hear it?

A. I didn't hear it.

Q. Where were you when this took place?

A. I was sitting in or standing outside of the police car that we had.

Q. How many police cars were there at that time?

A. Two.

Q. Whose?

A. Mine and Tom's.

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A. It took place outside of a 7-Eleven store in Patchogue.

Q. What's the address of that 7-Eleven store?

A. Roe Boulevard, and I can't recall the north/south street.

Q. What time did that meeting take place?

A. Probably before noon.

Q. Who were you with at that 7-Eleven that day?

A. It was Detective Iacopelli.

Q. How did you know who Mr. Wirshup was?

A. I believe we had seen a picture of him, a photograph of him.

Q. Where would you have gotten a photograph of him?

A. I don't recall.

Q. So you looked at a photograph at some prior occasion?

A. I believe so.

Q. And committed it to memory?

A. Sort of.

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A. Yes.

Q. The records for those cell phone calls, where are they kept?

MR. DUNNE: Objection to form.

It assumes that they are kept.

Answer as best you can.

A. I have no idea.

Q. Who pays the bills?

A. Suffolk County.

MR. BARKET: Leave a blank in the transcript there.

(INSERT):

Q. Did you get back, routinely get back the cell phone bills each month?

A. Yes.

Q. Then you would review them and submit them?

A. Correct.

Q. Were they paid by you and then you were reimbursed or were they paid directly by the county?

A. Paid by the county.

Q. Who did you submit the bills to?

Robert Amato 117

Q. And how was it that you ended up there?

A. We met there just about on a regular basis when we were working in Patchogue.

Q. So that just happened to be a day you met him there, Mr. Iacopelli that is?

A. Yes, we always met there.

Q. What was your tour of duty that day?

A. 9:00 to 5:00.

Q. Did you have a regular time that you met him?

A. I was working on another case at the time and after I finished up what I was doing further east we would meet up at that 7-Eleven.

Q. On that day, how did you arrange the meeting?

A. Probably via telephone.

Q. Is that a cell phone?

A. Yes.

Q. Is that cell phone issued to you by the county?

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the investigation on July 25th of 2006?

A. Investigation was complete. The trial was over.

Q. Trial was over?

A. Yes.

Q. You weren't working on it any longer?

A. No.

Q. The next document purports to be the transcript again, 2/10/03, right? There is a corresponding tape for this particular conversation, isn't there?

A. Well, there is a tape. Whether or not it corresponds to what is written here, I don't know.

Q. I'm not asking that. I'm asking if there is a tape for this conversation.

A. There is a tape that purports to be for that conversation.

Q. You heard that?

A. Yes.

Q. If you turn it upside down again, you look at it and there is a Page 4 again, right?

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A. The bills didn't come to me.

Q. Who did you submit -- when you received back the calls you made -- what did you receive monthly?

A. The bill would be given to us by Mary Smith. We would approve the bill and send it back to Mary Smith.

Q. This document, major crime, the first page of Exhibit K which is 2/6/03 has the Number 2 on it, right, the bottom?

A. Here you mean (indicating)?

Q. Yes.

A. Yes, page 2.

Q. Why don't we turn the whole thing upside down.

The next page is 3, at least according to this. I think you will agree with me it appears to be a fax printout, right?

A. Yes.

Q. It looks like it's from or to the major crime unit?

A. Yes, that's correct.

Q. By the way, what was the status of

1 Robert Amato 121

2 A. That's right.

3 Q. The next page is 5, is that right?

4 A. Yes.

5 Q. Next page is 6, right?

6 A. Yes.

7 Q. Then we go to, I guess that would
8 describe as a third document, something with
9 a date of 2/24/03?

10 A. Yes.

11 Q. Have you heard the tape of what
12 purports to be a conversation that took place
13 on that day?

14 A. Yes.

15 Q. If we turn that upside down, that
16 same -- what looks to be a fax is Page 7,
17 right?

18 A. Yes.

19 Q. Page 8, right?

20 A. Yes.

21 Q. Page 9?

22 A. Yes.

23 Q. Page 10?

24 A. Yes.

25 Q. Page 11?

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Q. At the bottom of that we have Pages 18 and, to move this along, through Page 30, and in sequence, is that correct?

A. Yes, it is.

Q. So it appears -- would you agree with me that it appears that these, what is the totality of Defendants' Exhibit K which includes five different transcripts or what look like transcripts, were faxed to or from the major crime bureau on July 25th of '06, is that right?

A. Yes.

Q. Have you spoken to anybody from the internal affairs unit concerning this particular lawsuit?

A. Not that I recall.

Q. Are you aware whether or not there is an investigation into your conduct in the investigation, arrest and prosecution of Mr. Wirshup by any governmental agency?

A. No, I'm not.

Q. In other words, if you were to engage in misconduct, who would have jurisdiction to investigate your professional

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A. Yes.

Q. We go to the next document or next -- looks like stapled 2/24/03, right?

A. Yes.

Q. Turn it upside down. We have Page 12, Page 13?

A. Yes.

Q. Page 14?

A. Yes.

Q. Page 15?

A. Yes.

Q. And we go to the next document which is March 7th?

A. Correct.

Q. Did you hear a tape of that conversation?

A. Yes, I did.

Q. That is page, in sequence, 16, yes?

A. Yes.

Q. Page 17?

A. Yes.

Q. Next document is dated March 7th of '03?

A. Yes.

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A. Yes.

Q. -- has a separate internal affairs bureau; is that correct?

A. All police officers employed by the same employer.

Q. Do they have a separate bureau for internal affairs?

A. Yes, they do.

Q. Do they have a bureau or officers or detectives or investigators assigned specifically to investigate allegations of misconduct or criminal behavior by the police department?

A. Yes, we do.

Q. Does the district attorney's office have a similar bureau?

A. Yes, we do.

Q. Who is or was in charge of that bureau in 2003?

A. Bureau chief was Ed Heilig.

Q. I thought Ed Heilig was the bureau chief of the unit that you were working on here?

A. Yes, he is.

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misconduct; the police department?

A. No.

Q. The district attorney's office?

A. Yes.

Q. Is there a unit within the district attorney's office that reviews your conduct?

A. Not that I'm aware of.

Q. So I guess -- I don't want to be flip, but I suppose it will sound that way -- the overseer of your conduct is who, exactly?

A. My immediate supervisor.

Q. You -- the DA squad polices itself?

MR. DUNNE: Again, object to the form of the question.

Answer that to the best of your ability.

A. You make it sound like the police department doesn't investigate themselves. It's the same situation. Yes, we investigate ourselves. The same as the police department would investigate themselves.

Q. Let's see if it's the same. The police department -- you used to work in one, right?

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A. Yes.

Q. When I say "talked to you about it," I don't mean in the course of your investigation of Mr. Wirshup, I mean spoke to you about your conduct or misconduct concerning the investigation of Mr. Wirshup.

MR. DUNNE: Objection to form.

Answer as best you can.

A. Detective Iacopelli and I have discussed this case and while it's ongoing at this point, has he contacted me to discuss my conduct, as you put it, no.

Q. I think you said before that, as far as you know, there is no investigation into your conduct by any government agency?

A. Not that I'm aware of.

Q. I asked you before about a conversation about Mr. O'Connor or O'Connell -- I always confuse those two.

MR. DUNNE: O'Connell.

E-L-L at the end.

Q. Patrick?

A. Uh-huh.

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Q. He does both?

A. I was in what you would refer to as the internal affairs unit. I was the public corruption unit.

Q. So the public corruption unit included misconduct by members of the

district attorney's office for the DA squad?

A. I would assume that would come to our office, yes.

Q. During the course of time you were there, did you investigate anyone in the district attorney's office or anyone in the DA squad?

A. No. During the time I was there, no.

Q. Since you left there, has anybody from that unit contacted you, spoke to you, talked to you about the investigation of Mr. Wirshup?

A. Yes.

Q. Who was that?

A. Detective Iacopelli.

Q. The gentleman -- the other named defendant here?

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Mr. Wirshup's indictment, yes?

A. Yes.

Q. Obviously, you guys went through a trial together, right?

A. Yes.

Q. I'm assuming during the course of the trial, as nature is, you commented on the other lawyers at times?

A. Right.

Q. Who else did Mr. O'Connell represent?

A. I don't recall if he represented anyone at that point.

Q. Who were you told he represented or what were the discussions -- you just said representing other people in the Town of Patchogue.

A. My take on that was he would represent anyone from Patchogue Village who would have been charged with a crime.

Q. Was he actually representing anyone else in your investigation that you were aware of in February 2003?

A. That I was aware of, no.

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Q. I want to focus in on whether or not he had conversations about him prior to Mr. Wirshup's indictment.

A. Yes.

MR. DUNNE: He answered. He said yes.

MR. BARKET: We kind of got off to the left. I want to come back to that now.

MR. DUNNE: You.
MR. BARKET: Well, he went with me.

Q. What were the nature of those conversations?

A. The nature to the best of my recollection, the nature of those conversations involved O'Connell and who he represented and clients that he represented who were employed by Patchogue Village.

Q. Who did you speak with? All the people you named?

A. I think you asked and I answered that already.

Q. And that happened before

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understanding is based on?

A. My understanding was based on Mr. O'Connell's relationship with Mayor Keegan.

Q. Mr. O'Connell's relationship with Mayor Keegan?

A. It was my understanding that Keegan appointed Mr. O'Connell as possibly temporary town justice and also as temporary village attorney.

Q. You mean temporary or part time?

A. My understanding was temporary.

Q. In other words, for a limited duration?

A. Correct.

Q. That duration included a time period of February '03, right?

A. No, that was not my understanding. That was just my understanding of the relationship between O'Connell and Keegan.

Q. Did you have any discussions with anybody in your agency, the people doing this investigation, concerning the propriety of Mr. O'Connell representing Mr. Wirshup?

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Q. Did anyone say to you he was representing anyone else?

A. No.

Q. When you say he would represent anybody in the Town of Patchogue charged with a crime, you need to narrow that down.

You don't mean the citizens. You mean the employees of the Town?

A. Correct, yes.

Q. What would make you think that any employee in the Town of Patchogue who got arrested at that time period would hire Mr. O'Connell?

A. It was my understanding that that would be who the Village would employ to defend one of their workers.

Q. Was that pursuant to a contract or a matter of practice? How?

A. It was just my understanding. I don't know where it came from.

Q. You don't know where your understanding came from?

A. No.

Q. And you don't know what your

Q. Was there a Grand Jury going on at this time -- a panel Grand Jury?

A. There is always a Grand Jury going on.

Q. In other words, was this the same time period you served? I think you said it was, as I recall.

Let me rephrase the question.

Was this the time period you were serving subpoenas to get the various records from the Town concerning the sidewalk and curb repairs?

A. Yes, I believe so.

Q. You know that there was a Grand Jury not just in panel, generally, but one specifically investigating Mr. Wirshup?

A. I don't know if that particular Grand Jury was investigating Mr. Wirshup or not. The Grand Jury was involved in the business of Steven Milvid and Debut Concrete. I don't recall if that Grand Jury was investigating Mr. Wirshup.

Q. Well, that was the Grand Jury that issued the subpoenas for the letters that

A. Yes.

Q. Who?

A. All the people that I mentioned to you earlier.

Q. Did anyone express the opinion that it was not appropriate for Mr. O'Connell to represent Mr. Wirshup?

A. Yes. I believe, if my recollection serves me correct, the attorneys felt there was a conflict.

Q. The attorneys being Mr. Nicolino? A. Nicolino, Prudenti, and the bureau chief, Heilig.

Q. Did the attorneys express to you the nature of that conflict or, should I say, perceived conflict?

A. Yes, because I believe O'Connell was representing another defendant in one of the investigations.

Q. Who was he representing?

A. It's ongoing.

Q. Who was he representing?

A. I don't recall whether it was Milvid or Strettle, it was one of those two.

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Q. I don't know if I can. Let me give you a few examples and see if you understand what I'm saying.

There are so many phrases you've heard. We kind of want the big fish. We don't want to hurt them. We want to use them to -- excuse me, the small fish, we want to use them to catch the big fish. You've heard expressions like that in the course of your law enforcement experience?

A. Yes.

Q. Working your way up the food chain, you've heard that?

A. Yes.

Q. All of these are kind of rough metaphors or maybe analogies for investigating a criminal organization, right?

A. Yes.

Q. The real obvious and maybe heavy handed one is John Gotti. The head of the Gambino crime family. You arrest the soldiers, you get them to cooperate. They get a deal and the person you really want is the John Gotti of the organization?

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went out to the Town's citizens instructing them to get --

A. I don't know if it was or it wasn't.

Q. The subpoenas weren't fraudulent, right, the ones you were serving?

A. Of course not.

Q. There was some Grand Jury that existed that justified the subpoenas you were serving?

A. Yes.

Q. Did you bring any witnesses to the Grand Jury?

A. Did I transport any witnesses to the Grand Jury?

Q. Yes.

A. I don't believe so, no.

Q. Did you express to Mr. Wirshup, in sum and substance, that you did not think that he was a significant figure, if you will, in this investigation?

A. I assume that means -- it all depends on what you believe by significant figure. Can you define that for me?

form? Don't answer?

MR. DUNNE: Yes.

MR. BARKET: Let me see if I can rephrase it.

Q. Did you think Mr. Wirshup was running a criminal enterprise?

A. Yes, he was.

Q. Was he giving others directions that were working under him and committing crimes for him?

A. It's all semantics. Was he giving directions at anyone to commit crimes for him, no.

Q. Did you think other people were telling him to commit crimes for them?

A. In my own personal opinion, yes.

Q. Did you say to him that you thought he was a fall guy or a patsy?

A. I may have.

Q. Let's see if we -- and feel free to use what's been marked as Defendants'

Exhibit K. I want you to look at the conversation that is described there from February 6th of 2003. By the way, just to be

A. Yes.

Q. Did you have an opinion as to where Mr. Wirshup fell in the hierarchy of criminal behavior in the Town of Patchogue?

MR. DUNNE: Over and above

what he testified to last week?

MR. BARKET: Not over and

above --

MR. DUNNE: He answered what he believes his role was. You asked him point-blank.

MR. BARKET: I'm asking a different question point-blank.

MR. DUNNE: No. You're asking the same question.

I object as asked and answered.

MR. BARKET: You're telling him not to answer that question?

MR. DUNNE: As it's worded.

MR. BARKET: Because of the form.

MR. DUNNE: Yes.

MR. BARKET: Objection to

course of this but I'm really not trying to annoy you. I just have a bunch of questions I've got to go through and ask, but the way it works is he gets to object. I get to ask. You get to answer.

Whose car did you talk in?

A. Tom's car.

Q. Tom being?

A. Tom Iacopelli.

Q. Is that a police vehicle?

A. Yes, it is.

Q. Where were you sitting in the car?

A. The passenger seat.

Q. Where was Mr. Iacopelli sitting?

A. Driver's seat.

Q. Where was Mr. Wirshup sitting?

A. Back seat.

Q. How long did the conversation last for?

A. Ten minutes.

Q. Did you make any notes concerning the conversation?

A. No.

Q. Did you take down any phone

clear, you did end up having a conversation with Mr. Wirshup that day that you and Mr. Iacopelli met at 7-Eleven; is that right?

A. I can't --

Q. I'm not asking you authenticate that. I'm asking if you had a conversation with Mr. Wirshup on February 6, 2003 with Mr. Iacopelli?

A. Yes.

Q. Where did that conversation take place?

A. Asked and answered. Outside the 7-Eleven store.

Q. Outside --

A. In Patchogue.

Q. Outside of the store or in a car outside the store?

A. Outside the store in a car.

Q. That's what I was getting at. Whose car?

A. Tom's car.

Q. Just to say you've been very patient with this and I appreciate it. Most people get annoyed well before now in the

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Investigator Iacopelli and say Mr. Wirshup is represented by counsel, we shouldn't be speaking to him?

A. No.

Q. Did you call Mr. O'Connell's office and ask if it was okay if you and Investigator Iacopelli speak with his client in the back of Mr. Iacopelli's car?

A. No, we didn't.

Q. Did either you or Investigator Iacopelli tell Mr. Wirshup, in sum and substance, that you're a small fish in a big pond?

A. That doesn't sound like my line.

Q. Did you indicate to him, in sum and substance, that you wanted him to cooperate with your investigation?

A. Yes.

Q. Did you indicate to him that if he was cooperative with the investigation, that any -- any exposure that he may have could be reduced or he would get a break in return for the cooperation?

A. He was advised that any cooperation

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numbers, deeper numbers, anything?

A. Probably one of us did. I don't recall which one of us did.

Q. How was it that Mr. Wirshup ended up in the back of Investigator Iacopelli's police vehicle?

A. Tom Iacopelli met him in the store. They came outside. I believe at the time I was standing outside the police vehicle on the passenger side. He introduced me to Dan. Dan was invited to sit in the car with us. It was kind of cold out. We sat in the car. We were drinking our coffee and talking to Mr. Wirshup.

Q. Did you know Mr. Wirshup was represented at that time?

A. Yes.

Q. Who did you understand him to be represented by?

A. O'Connell.

Q. Did that in any way affect your willingness to have a conversation with him?

A. No.

Q. Did you talk to Agent Iacopelli or

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2 The way you are framing the
3 question is as if he was going to
4 make the decision about what type
5 of consideration he would be given.
6 Your question assumed that. I
7 think his answer to you that, yes,
8 he expressed a sentiment similar to
9 that but that it's not his decision
10 as to what that consideration would
11 be and that's the extent of it.

12 Your last question assumes
13 that he is going to be the one
14 making that determination other
15 than just relaying the information.

16 Q. When you said to Mr. Wirshup that
17 any cooperation would be considered, did you
18 mean considered in the context of the
19 criminal justice system?

20 A. Yes. That's not the wording that I
21 may have used but sum and substance, yes.

22 Q. The word "considered" was actually
23 one you introduced into our conversation so
24 that's why I was asking about it.

25 A. I don't know if the word

1 Robert Amato 142

2 he gave us would be considered.

3 Q. Considered? Considered to reduce
4 his criminal exposure or time in jail?

5 A. We don't make that determination.
6 It's up to the assistant district attorney.

7 Q. When you say "considered,"
8 considered how? Like, when he passes away
9 how long he spends in purgatory or does he
10 get a merit badge or considered in terms of
11 his criminal exposure, yes?

12 A. Yes, that would be correct.

13 Q. So we are not talking about
14 something else, you're saying to him any
15 cooperation you give, it will be taken into
16 account as to what happens in the criminal
17 justice system?

18 MR. DUNNE: Objection to the
19 form because it's assuming
20 something.

21 He indicated that he doesn't
22 make that decision. He may very
23 well have indicated that but that
24 information would have been told to
25 him and later presented to the DA.

Q. What did you tell him in your own words, in sum and substance, what did you tell him?

A. I told him, in sum and substance, that while O'Connell was a very fine attorney, there were things about the investigation that we were conducting that we would not want O'Connell to know because of the fact that he may be investigating some of the people that we would be talking about. I explained to Wirshup how this would work would be that we would sit down with him and it would be a give and take. He would give us information. We would give him information and there is information we would not want to give him in the presence of Mr. O'Connell.

Q. What was Mr. Wirshup's response to this?

A. Confusion.

Q. What did he say?

A. He didn't understand what I meant by that.

Q. Did you explain it to him again?

"considered" is the word I used that day. It's the word I used today but not necessarily the word I used that day.

Q. I'm asking about the word you used that day.

MR. DUNNE: The tape speaks for itself.

MR. BARKET: That actually is not tape, if I recall.

A. There is no tape but I don't recall.

MR. DUNNE: Actually, you're correct. There is no tape on that day.

MR. BARKET: Get a tape of that remark.

MR. DUNNE: She took it. It's on there.

Q. Did you indicate to him or did Investigator Iacopelli indicate to him that the attorney he currently had, Mr. O'Connell, was a hurdle or an obstacle to him cooperating with your investigation?

A. In sum and substance, yes.

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A. I asked him if he would be willing to meet with us.

Q. What did he say?

A. He said if he could find another attorney, he would.

Q. If he could find another attorney, he would be willing to meet with you?

A. Yes.

Q. So he indicated that he would be willing to cooperate with the investigation?

A. At that point, yes.

Q. Did he make any statements that you would view as admissions?

A. No.

Q. Did he say anything at all during the conversation that indicated to you that he actually had committed some crime?

A. No, wouldn't let him.

Q. Did he say anything to you during the course of that conversation that in any way would have led you to believe or added to your belief, however slightly, that he committed a crime?

A. No.

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A. Yes. I told him that one of the primary problems here was that O'Connell may be representing other targets of this investigation. I had to be very careful not to tell him what we were investigating.

Q. Did you tell him that too?

A. Yes.

Q. After you explained it to him a second time, what did he --

A. He seemed to understand.

Q. What was his reaction after he understood it?

A. He wanted to know about other attorneys.

Q. What did you tell him?

A. Told him we couldn't recommend other attorneys. I said he would have to find one of his own.

Q. How about the subject of whether or not he was going to cooperate with the investigation?

A. What about it?

Q. Did you ask him whether or not he was willing to cooperate?

Q. At any point during the conversation, did you express to him or direct to him any remarks that indicated you thought he engaged in some criminal activity?

A. Yes.

Q. What did you tell him?

A. In sum and substance, that some of his activities while employed by the Village in his capacity may have been considered criminal in nature.

Q. Did you tell him you thought you had proof that he committed a crime?

A. No.

Q. When you told him that you thought he engaged in criminal activity, what was his reaction?

A. No reaction.

Q. He didn't, neither in word nor in gesture, he didn't respond?

A. No.

Q. Can you turn to the next transcript.

A. (Witness complies.)

Q. On the 24th of February 2003, did

Q. So during the course of that conversation, Mr. Wirshup didn't say anything at all that if you could use it, chose to use it, would be helpful in a criminal prosecution against him?

A. No.

Q. So that conversation itself, there was nothing he said at all that was incriminating, is that right?

A. That's correct.

Q. How many times did you meet with Mr. Wirshup at that 7-Eleven?

A. I believe twice, including that time.

Q. When you left, did you have any conversation with him about how to contact him next?

A. Yes.

Q. Or have him contact you?

A. Yes.

Q. What was that?

A. I believe that we gave him one of our business cards with our number on it. I believe he gave us his beeper number.

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1 a look. I think I said the next one and then
2 said the 24th. Let's go back to the 10th.

3 On the 10th, did you have a
4 conversation, February 10, 2003, did you have
5 a conversation with Mr. Wirshup?
6

7 A. Yes.

8 Q. He called you?

9 A. Yes.

10 Q. Did you speak to him?

11 A. Yes, I did.

12 Q. Are you looking now at what
13 purports to be a transcript, February 10,
14 2003?

15 A. Yes, I am.

16 Q. Did you ever compare that
17 transcript to the tape?

18 A. Yes, I have.

19 Q. Did you make any notes of that
20 comparison?

21 A. I made no notes about the
22 comparison because there are some areas that
23 may or may not be what's written here.

24 MR. DUNNE: In other words,
25 we haven't done that yet.

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1 you or Detective Iacopelli or you actually
2 page Mr. Wirshup?

3 A. I don't think I did. I think he
4 called us.

5 Q. He called you unexpectedly? You
6 didn't think he was going to call or didn't
7 know he was going to call?

8 A. Yes, correct.

9 Q. The transcript --

10 MR. DUNNE: You have the
11 wrong date. The next conversation
12 is not the 24th. It's the 10th.
13 You're referring to a later
14 conversation.

15 MR. BARKET: I thought I
16 asked about the 24th.

17 MR. DUNNE: I thought you
18 said the next one.

19 MR. BARKET: I thought I said
20 the 24th.

21 MR. DUNNE: My mistake.
22 A. Yes. I believe at the time we did
23 page him.

24 Q. Now, you say the 10th. Let me take
25

1
2 after Mr. Wirshup's deposition?

3 A. After.

4 Q. I guess before yours?

5 A. Yes.

6 Q. Let's go through this, if I can, a
7 little bit.

8 A. Sure.

9 Q. As we are looking at this, on the
10 first page there is a statement attributed to
11 you that says, "See that's the problem. You
12 know what, Dan, you're not really that bad a
13 guy. You're nothing like we had here, so far
14 as problems go. You really shouldn't have to
15 be implicated with this. There are other
16 people that should be dealing with these
17 problems not you. Um, I think you're kind of
18 like a victim of circumstance and that's
19 probably why one of the reasons why we
20 haven't either scooped you up and collared
21 you, threw you out to the press. That kind
22 of stuff. Do you know what I'm saying?"
23 Did you say that?
24 A. I either said that or something
25 very close to it.

1
2 Q. What we did I'm not all that
3 concerned about. What I'm concerned about is
4 what Investigator Amato did.

5 A. The tape I listened to is very
6 choppy. I have reason to believe that one of
7 these may have been doctored. It's very hard
8 to understand. I have to listen to the
9 original, which we only got a week ago.

10 MR. DUNNE: Actually, we
11 still don't have.

12 Q. So my question is, when you listen
13 to the tape and compare it to the transcript,
14 did you make any notes of your comparison?

15 A. No. The answer is no, I did not
16 make any notes other than mental notes.

17 Q. When did that take place?

18 A. What, sir?

19 Q. The comparison.

20 A. The first time would be sometime
21 after the tape was delivered to the district
22 attorney's office.

23 Q. How about the most recent time?

24 A. About two weeks ago.

25 Q. January 19th, was that before or

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Answer the question as best

you can.

A. May have been, if it's available.

Q. When you say that's normally what would happen to him, do you really mean normally what would happen to Mr. Wirshup if he gets arrested or that's normally what happens when a person gets arrested or that's normally what happens to a person that you arrest?

A. That would be normally what happens to a person that is arrested in this situation.

Q. Which situation is this?

A. As a public official.

Q. "Threw you out to the press." Who would the thrower?

A. I don't believe anyone in particular. The press or the blotter is available to the press and they would be made aware of the arrest.

Q. The sentence reads, "Why we haven't either scooped you up..." The "we" in that instance is you and the other people in the

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Q. What did you mean by "scooped you up?"

A. Picked him up. Arrested him.

Q. Arrested him and charged with a crime?

A. Yes.

Q. "Collared him," what does that mean?

A. That's a slang word for arrest.

Q. "Threw you out to the press," what did you mean by that?

A. That would be what normally would happen after he gets arrested. He would be -- his situation would be made known to the media.

Q. When you say that's what normally would happen when he gets arrested, Mr. Wirshup, I think, was arrested for a drunk driving case a number of years ago. Do you know if that drunk driving arrest may be publicity --

MR. DUNNE: Objection to form.

It assumes something.

1 district attorney squad, is that right?

2 A. Yes.

3 Q. And "collared you," again, the
4 person doing the collaring would have been
5 you?
6

7 A. Yes.

8 Q. And "threw you out to the press,"
9 that would have been you as well, right?

10 A. Maybe.

11 MR. DUNNE: No. Objection.

12 That absolutely assumes
13 something that he did not testify
14 to. You now twisted his answer.
15 I'm objecting to the form.

16 Don't answer that as it's
17 worded.

18 Q. "That kind of stuff."

19 What's "that kind of stuff?"

20 A. That kind of stuff, yes.

21 Q. What kind of stuff?

22 A. Yeah, scoop you up, collared you
23 and throw you out to the press. That kind of
24 stuff.
25

Q. Following this down. Wirshup says,

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Q. Don't what?

A. Don't do anything. Don't go running around trying to get yourself an attorney is probably what I meant.

Q. About halfway down the page is another statement attributed to you. Reading the transcript along, let me ask you about this phrase or this paragraph.

According to the transcript it says, "No, I wouldn't do anything right now until you see which way it falls. You know, maybe something will break for you in the next day or so. Who knows. Give me a day or so and I will get back to you and I will talk to the ADA that's involved here and tell him, listen, you know, that guy is willing to do the right thing here, okay?"

Did you say that?

A. Sounds very close to something I would have said.

Q. Let's just kind of make sure we understand what you meant here.

The ADA that you know is involved here, who is that?

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"Right," in response to that. At least according to the transcript. And then you say, "Did you talk to your attorney at all?" Do you see that?

A. Uh-huh.

Q. And it says, "Well, I had to let him know there is, you know, a problem and a problem and it's in my court."

Amato: "It's in your hands. Let me give you a piece of advice. Why don't you sit tight a day or so and let me reach out to you. I can get you at your place of business?"

Did you say that?

A. It sounds like something I did say, yes.

Q. When you say, "Why don't you just sit tight," what are you referring to?

A. That's a slang statement for why don't you just not do anything for the next day or two.

Q. What are you telling him not to do?

A. Just kind of relax for the next day or two. Don't do anything.

1 right?

2 A. Sometimes.

3 Q. They also have several choices.

4 let me go through them. They can plead
5 guilty if they want to and take whatever
6 sentence the Court gives them, yes?

7 A. Yes.

8 Q. They can go to trial, yes?

9 A. Yes.

10 Q. And there are times if law
11 enforcement is interested, they can -- the
12 individual can offer information about other
13 people's criminal activity in order to gain
14 for themselves a reduced sentence or reduced
15 charges; is that right?

16 A. Those are all options that the
17 person would have with the district
18 attorney's office.

19 Q. Correct.

20 When you say "do the right thing,"
21 you were referring to Mr. Wirshup's
22 willingness or perceived willingness to come
23 in and, one, admit his own culpability; and,
24 two, implicate others?
25

1 A. That would have been Chris Nicolino
2 or John Scott Prudenti or Jeremy Scileppi or
3 Ed Heilig.

4 Q. What did you mean by "the guy?"

5 Who is the guy, that, "The guy is willing?"

6 A. The guy refers to Dan Wirshup.

7 Q. Mr. Wirshup?

8 A. Right.

9 Q. And "do the right thing." What
10 does that refer to?

11 A. That he is willing to come in and
12 speak to us.

13 Q. You mean he is willing to
14 cooperate?

15 A. Yes.

16 Q. When I say "cooperate," I guess I'm
17 kind of using a term of art. He is somebody
18 you believe is involved in some criminal
19 activity, yes?

20 A. Yes.

21 Q. Individuals involved in criminal
22 activity have several choices when they are
23 confronted with the criminal activity or
24 alleged criminal activity by law enforcement,
25

1 sentences.

2 Q. Except for the occasional uh-hum.

3 A. Yes.

4 Q. "Let me talk to the DA and see what
5 his pleasure is." That sounds similar to
6 what was said up here where it says, "Let me
7 talk to the ADA that, you know, is involved
8 here," right?

9 A. Yes.

10 Q. So that may be that phrase, at
11 least something you would have said, yes?

12 A. Yes.

13 Q. Was that true, factually?

14 A. What is that, sir?

15 Q. That you wanted to go back and
16 speak to the DA concerning this?

17 A. Absolutely, yes.

18 Q. Did you, in fact, go back and speak
19 with them?

20 A. Yes, we did.

21 Q. After this conversation -- who did
22 you speak with, if you recall?

23 A. We probably spoke with either
24 Nicolino or John Scott Prudenti at that time.
25

1 A. That was my perception at that
2 time.

3 Q. Well, that's what you meant by "do
4 the right thing," is what I'm asking?

5 A. Yes.

6 Q. Mr. Wirshup says, "Yeah, but I
7 should still go in with an attorney, right?"
8 Your response was "Absolutely."

9 Is that right?

10 A. Yes, it was.

11 Q. Then he says, "That's what I'm
12 saying. That's what I don't know. I mean,
13 if you're going to call me in, I need to talk
14 to an attorney."

15 The response that's written here,
16 "I couldn't get that out without having an
17 attorney. Let me talk to the DA and what his
18 pleasure is, okay?"

19 Did you say that?

20 A. That doesn't sound like something I
21 would say. That particular sentence may
22 be -- that might be what came out on the
23 copy. It doesn't sound like a complete
24 sentence and usually I do talk in complete
25

1 that's the thread that weaves through all
2 this. We did not want to talk to Dan Wirshup
3 in the presence of O'Connell, as simple as
4 that. We were willing to talk to him if he
5 was willing to talk to us, provided he get
6 another attorney, very simple.

7
8 Q. I'm asking about your conversations
9 with the assistant district attorney and
10 Investigator Iacopelli and I want to know
11 what it was that you said to them. So I take
12 it at that point in time you all -- "you"
13 being you and the investigators and DAs --
14 already knew what your position was. You
15 didn't want to talk to Mr. Wirshup in the
16 presence of Mr. O'Connell, correct?

17 A. That's correct.

18 Q. You didn't repeat your own position
19 to yourself. What did you say to them?

20 MR. DUNNE: He did. He
21 answered that already.

22 Q. Is that what you said?

23 A. That's what I said to him.

24 Q. You said, "We are not going to talk
25 to Wirshup," that was your decision?

1 Q. When you say "we," who do you mean?

2 A. Detective Iacopelli and myself.

3 Q. What was the conversation? What
4 did you tell him?

5 A. Basically that it sounded like
6 Wirshup was willing to come in and speak to
7 us but that he was -- and my perception of
8 this conversation was that the reason for
9 "sit tight" and "hang loose" was because he
10 sounded nervous about this, was that we have
11 to find this guy, we can't bring this guy in
12 without an attorney.

13 Q. You started to say "we have to find
14 this guy."

15 What did you mean by that?

16 A. We have to find out if this guy can
17 get an attorney.

18 Q. We have to find out if he can get
19 an attorney? He had an attorney?

20 A. Yes, he did have an attorney.

21 Q. So what did you mean you had to
22 find out?

23 A. We obviously were not willing to
24 talk to him with that attorney. I think
25

1 new lawyer?

2 A. Correct.

3 Q. When is the next contact you had
4 with Mr. Wirshup after that?

5 A. I would believe it would have to be
6 the date of the next conversation which was
7 on the 24th.
8

9 Q. Let's not assume that's correct.

10 Did you have any conversations with
11 him between February 10th and February 24th?

12 A. No.

13 Q. On February 24th -- by the way, did
14 you learn at some point during this that
15 Mr. Wirshup was in the district attorney's
16 office prior to February 6th?

17 A. At some point, yes, I did learn
18 this. I don't know exactly when it was. It
19 wasn't at the time we first met with him.

20 Q. What did you learn took place
21 during that meeting?

22 A. What I learned is that he had been
23 into the office with O'Connell and they met
24 with John Scott Prudenti.

25 Q. Who else was present for this

1 A. No. I don't make that decision.

2 What I said was, or what I was trying to say
3 was that we needed to find out if Wirshup was
4 going to get an attorney so we could bring
5 him, simple.
6

7 Q. You told Mr. Wirshup you needed to
8 speak to the DA, right?

9 A. Right.

10 Q. When you went to talk to the DA,
11 according to you, you said, "We have to wait
12 and see if he was going to get a lawyer."
13 That was the extent of your conversation with
14 the DA?

15 A. No, we were trying to find out what
16 we could do about getting him hooked up with
17 an attorney. Was there a way we can give him
18 a list, tell him to go through the yellow
19 pages, what do we do with this situation.

20 Q. What was the conversation, what was
21 suggested, who said what to whom?

22 A. Counsel was to let him decide on
23 who he wants to get as an attorney.

24 Q. So the decision was we will do
25 nothing? We will let him contact us with a

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A. Of course.

MR. DUNNE: Appropriate
being a subjective term.

Q. How about required and permitted,
legally permitted?

A. In this particular case, yes, it
was permitted.

Q. What is your perception of how you
were permitted to speak to Mr. Wirshup while
he was represented by counsel without either
the permission of his attorney, his attorney
being present?

A. We were not talking to him about
any particular crime.

Q. What were you talking to him about?

A. Talking to us about his work and
coming in to see us with an attorney.

Q. What work?

A. What work, his work for the Village
of Patchogue.

Q. I thought that's what you're
investigating?

A. That's what we were investigating.
That's not what we tell him we were

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meeting?

A. I don't know.

Q. Was Investigator Iacopelli?

A. I don't believe so.

Q. Were there any investigators?

A. I don't know.

Q. So going back to the February 6th
meeting, it's your understanding that neither
Investigator Iacopelli or yourself ever met
Mr. Wirshup before?

A. That's correct.

Q. And that from a photograph, the two
of you happen to run into him at 7-Eleven,
recognize him, introduce yourselves and have
a conversation?

A. That's what we do for a living.

Q. What is it that you do for a
living?

A. We recognize people from
photographs.

Q. And talk to them?

A. If it's required, yes.

Q. Required and appropriate, of
course, right?

Q. And, actually, if he had made admissions during the course of that meeting, it would have been perfectly appropriate for you to use that those admissions?

A. I don't know about that.

Q. Why not? What do you mean you don't know about that?

A. I don't know about that.

Q. In the course -- we went over this at length last time about all your training concerning interrogations and how it works --

MR. DUNNE: Is there a

question here?

MR. BARKET: Yes, there is.

Q. Were you trained in all those meetings about when you can get admissions and how they were admitted into court?

A. As I said in my answer last time, every situation is different. Every set of circumstances is different. There are no set of rules that apply to every situation. You need to take every situation as it goes.

Q. The 7-Eleven, the meeting you had with him at 7-Eleven that, according to you,

investigating. We didn't tell him anything. We didn't have discussions about any criminal activity other than the fact that we advised Mr. Wirshup that he may have been involved in criminal activity and that he needed to speak to us with an attorney.

Q. Your perception is that you were permitted, if you wanted, to speak to Mr. Wirshup on February 6th without the permission of his lawyer or his lawyer being present, is that correct?

A. Yes.

Q. You thought it was appropriate and you were permitted to talk to him about getting a new lawyer for himself so he can come in and cooperate with the district attorney's office?

A. Yes.

Q. That was an appropriate conversation from your perspective?

A. Yes.

Q. In all respects, nothing wrong with it, nothing illegal about it, nothing?

A. Nothing.

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Q. Do you know -- here it says about two-thirds of the way down, it has a statement. Let's start halfway down. "How did you make out? Did you get yourself hooked up with another lawyer?"

Wirshup: "No, you told me not to do anything."

Were those two statements made by you and Mr. Wirshup?

A. It sounds like a statement I would make.

Q. The next statement is, "Oh, okay, because we are ready to convene a Grand Jury here and depending on what you want to do, whether you are going to be a witness or a defendant, you know. Have you heard anything about any attorney you might want to retain or --"

Did you say that?

A. Yes, I believe I did.

Q. Was that true?

A. Not completely.

Q. Which part was false?

A. Probably about getting ready to

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as I understand it, was coincidental?

A. Yes, it was.

Q. Complete happenstance?

A. Absolutely.

Q. Getting to the conversation on February 24, 2003, did you page Mr. Wirshup on that day?

A. Yes, I think so.

Q. Had you spoken with Mr. O'Connell between February 6th and February 24th?

A. No.

Q. Did anyone from your staff speak with him?

A. Not that I'm aware of.

Q. Any of the prosecutors, any other agency that you're aware of?

A. I wouldn't have any knowledge of that.

Q. You may. You can say you don't know.

A. I don't know.

Q. So not to your knowledge, is what you're saying?

A. Correct.

to come in and talk to us and be a defendant.

Q. That was the choice you were presenting him with at that time?

A. Yes.

Q. Next question, set of statements is, "Well, that's why I was looking for you for some guidance."

Your response was, "I really can't go there with you, you know what I'm saying? I can't tell you to use this guy, use that guy, you know. If you run somebody by me I can tell you whether I know the guy is good or bad but I can't really steer you to an attorney, so to speak. Do you know what I'm saying?"

Did you say that?

A. Sounds like what I said, yes.

Q. Let me see if I can define some of the statements.

When you say, "I really can't go there with you, you know what I'm saying? I really can't tell you to use this guy or that guy," you're telling him, I suppose, fairly explicitly, you can't select a lawyer for

convene a Grand Jury. I believe one was already convened.

Q. Why did you lie to him?

A. I don't recall. Might have been to attach some urgency to the situation.

Q. What do you mean, attach urgency?

A. I wanted to get him to come in, come in and speak to us. I wanted him to get an attorney and come in and sit down with us. That was my goal. That was our goal.

Q. To that end, you told him that there was about to be a Grand Jury convened when, in fact, one had already been convened and there was no particular urgency to that day?

A. Correct.

Q. There is something here, "whether you are going to be a witness or a defendant."

What did you mean by that?

A. Exactly what I said. Whether you're going to be a witness or a defendant, you know. Are you going to come in and talk to us and be a witness or are you not going

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A. Correct.

Q. What was the problem with

Mr. O'Connell?

MR. DUNNE: That's been

asked and answered.

Q. When you say "good or bad," did you really mean that you were going to tell

Mr. Wirshup whether or not you thought the attorney he chose was qualified to do the work that you chose him for?

MR. DUNNE: Asked and answered.

A. Of course not and I answered that question already.

Q. Did you mean --

A. I answered that question already.

Q. I get to ask another one, even if it's similar.

MR. DUNNE: Well, we'll see where it goes.

MR. BARKET: I do get to ask.

Q. By "good or bad," did you mean whether or not the attorney had a similar

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him?

A. Correct.

Q. Then you say, "If you run somebody by me, I can tell you whether I know the guy is good or bad."

Do you see that phrase?

A. Yes.

Q. In other words, you said to him, "If you run somebody by me," in other words, if you give me the name of another lawyer, right, is that what you mean by that?

A. Yes.

Q. "I can tell you" -- what do you mean "if he is good or bad?"

A. I tell you if this guy does criminal work or all he does is closings or a matrimonial attorney. Good or bad for you is what I would have meant.

Q. How about good or bad for you? Were you concerned about that at all?

A. At that point, no.

Q. Well, Mr. O'Connell is, was, continues to be a criminal defense lawyer, yes?

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A. I meant by good or bad whether or not the attorney was in criminal law or whether he was a guy who did real estate or matrimonial. That's what I mean by that.

Q. So the answer to my question, did you mean had a conflict similar to Mr. O'Connell would be no, that's not what you meant; is that correct?

A. That's correct.

Q. The next page. Can you turn to the next page, the statement attributed to you says, "We won't deal with O'Connell. Not that he is a bad guy, you understand. It's just that he defends other people that are likely to be a target of this investigation and we wouldn't want any word to get back to those people. Do you understand what I'm saying?"

Did you say that?

A. Sounds like something I said, yes.

Q. That's in response to a question by Mr. Wirshup, "What is it, any other attorney but O'Connell; is that right?"

A. Correct, yes.

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problem to Mr. O'Connell?

A. I answered that question already.

Q. You get to answer it again.

MR. DUNNE: No. He answered it. This is not a repetitive practice. Feel free to ask him anything you like, Bruce.

MR. BARKET: I'm asking

you -- I didn't ask that question specifically.

Q. When you said "good or bad," did you mean --

A. I told you what I meant by good or bad.

Q. Investigator, like I said, you've been very patient, I appreciate it. Let's not argue with each other.

When you said "good or bad," did you mean an attorney that either had or did not have a conflict similar to Mr. O'Connell?

A. We are not going to have an argument about it. I already told you what I meant by good or bad.

Q. Answer the question, please.

A. No.

Q. What did you mean by "bad" used here in reference to Mr. O'Connell?

A. I said "not that he is a bad guy."

Q. What did you mean?

A. As opposed -- that he is not a bad guy, he is a decent guy. He is a good attorney.

Q. Friendly?

A. No. That he is a good attorney.

Obviously, Mr. Wirshup understood me.

Q. That may be or may not be?

A. Well, he said, "I hear you." So obviously --

Q. We are going through this and I need to understand. At the very least, I need to get you to express the opinions on the record.

A. I can't give you a definition of every word I used. We would be here forever.

MR. DUNNE: No, we won't be here forever.

MR. BARKET: No, we won't be here forever but we might be here

Q. There, when you're saying, "Not that he is a bad guy," when you said "bad" there, did you mean bad that Mr. O'Connell does real estate closings?

MR. DUNNE: No. Objection.

Ask him what he meant by

bad. Don't put words in his mouth.

MR. BARKET: I get to phrase the question.

MR. DUNNE: I'm objecting to the form.

MR. BARKET: I can ask leading or non-leading questions.

MR. DUNNE: I understand that.

MR. BARKET: I'm asking a very specific question.

Q. By "bad," did you mean Mr. O'Connell did real estate closings?

A. No.

Q. Did you mean "bad" that he wasn't experienced in criminal defense?

A. That he wasn't experienced?
Q. Right.

1 information that you tell us about to other
2 people and purely it's not in your best
3 interest, you know what I'm saying?"

4 Did you say that?

5 A. Close to that.

6 Q. Just to make sure it's clear what
7 you're saying, at the top here you say, "I
8 don't care who else you get."
9 Do you see that?

10 A. Yes.

11 Q. In other words -- well, when you
12 say you don't care who else you get, that's
13 pretty obvious. He can get any lawyer he
14 wants, yes?

15 A. Right.

16 Q. What you're saying is the only
17 problem with O'Connell is you think he has a
18 conflict, yes?

19 A. Correct.

20 Q. That opinion is based in part on
21 your conversations with the prosecutor; is
22 that correct?

23 A. Yes, it is.

24 Q. Your own basic, I wouldn't say
25

1 for longer than we thought.

2 Q. Mr. Wirshup said, "I hear you."

3 And you say, "If you're going to be talking
4 to us, I don't know, I would hope that he
5 would have your best interest at heart but I
6 don't know, you know."

7 Now, the "he" that you are

8 referring to there is the attorney, right?

9 A. Yes, correct.

10 Q. Mr. Wirshup responds, "I hear what
11 you are saying. I don't just want to, you
12 know, retain another lawyer and then I go in
13 there and you say he is not acceptable." The
14 response that's printed here is, "No, no, no,
15 the only reason we have any kind of trouble
16 with Mr. O'Connell because of the fact that
17 he represents other people. I don't care who
18 else you get. You know what I'm saying? It
19 doesn't matter. It's not that O'Connell is a
20 bad guy. The reason is because he is
21 representing other people involved in this
22 thing and, you know, human nature being what
23 it is, I wouldn't want to put him in a
24 position where we might think he is giving
25

1 investigation who is giving you orders on
2 things to do and not to do and those orders
3 are of a criminal nature, then really it's
4 not in your best interest to have that
5 attorney sitting there listening to us
6 discuss someone that he represents or is
7 friendly with that you're telling us about.
8 It makes sense to me.

9
10 Q. It may make sense to almost
11 everybody. Let me see if I can capture your
12 words.

13 you were saying to him it's not in
14 your best interest that the attorney, if he
15 has got another client to protect, he may not
16 be looking out for you so well?

17 A. That's a possibility, yes.

18 Q. That the decisions to cooperate, to
19 plead guilty, to go to trial, that he is
20 going to give you advice about may be
21 affected by his loyalty to other people,
22 correct?

23 A. Yes, that's correct.

24 Q. That he may tell you not to
25 cooperate, not because it's in your best

1 instincts, but experience as an investigator,
2 correct?

3 A. Yes, it is.

4 Q. You wouldn't want to even,
5 regardless of what the attorneys say, you
6 wouldn't want to sit down with an individual
7 witness or cooperator -- you know what I mean
8 by that, right?

9 A. Yes.

10 Q. Somebody who is potentially a
11 defendant who is giving you information to
12 trade to help himself, right?

13 A. Yes.

14 Q. You wouldn't want to sit down with
15 that person if the person's lawyer was
16 representing the individual you wanted the
17 information about?

18 A. Exactly.

19 Q. Says something here about, "It's
20 not in your best interest," right?

21 A. Yes.

22 Q. Tell us what you meant by that.

23 A. What I meant by that was if your
24 attorney represents a target in this
25

funneled to Debut Concrete.

Q. Had you done any examinations for the work that was done by Debut Concrete at that point?

A. I don't know. I would have to refer to something.

Q. What would you have to refer to?

A. Probably whatever notes we had concerning the measurements that we took.

Q. Do we still have those notes someplace?

A. Yes.

Q. We don't have them with us, do you?

A. No.

MR. BARKET: We ask for those notes at some point.

Q. Below that there is something that is inaudible. At least it's written inaudible here. "For that in return which you give us some information as to what's going on. That's really the basic thing. I don't want you sitting down with us telling us something that is going on and it's liable to get back to other people that you're

interest to cooperate but because he is looking to protect his other client?

A. That's a possibility, sure.

Q. That's one of the things you're expressing to Mr. Wirshup here?

A. Yes.

Q. Down below here says, "You're not a bad guy. I can tell you straight out you have done some things that can be construed to be not really kosher. As a matter of fact, it can be criminal. Do you know what I'm saying?"

A. Yes.

Q. Did you say that?

A. Yes, I believe I said something close to that.

Q. At that point in time, this is February 24th of 2003, what was the status of your investigation?

A. We had some work that was being done by Debut Concrete on the homes of people that Dan Wirshup visited and had letters sent to them demanding that they replace their sidewalks and that the work was being

Robert Amato

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1 A. Well, I don't know his complete
2 circle of friends.

3 Q. I'm sure you don't. What I'm
4 saying is, when you said, "You know who his
5 good friends are," obviously I'm asking who
6 you were --

7 A. That's what I was referring to.

8 Q. You were referring just to

9 Mr. Keegan?

10 A. Yes.

11 Q. Then you say "no." You say, "Well
12 neither do I. Maybe I can tell you but I
13 won't."

14 What are you saying there?

15 A. I wasn't going to mention Keegan's
16 name to him at that point.

17 Q. And reading this page over, does
18 this all look like something you said, any
19 omissions or insertions?

20 A. That looks pretty close, yes.

21 Maybe a word here and there.

22 Q. There is mention of Paul Gianelli?

23 A. Yes.

24 Q. You say you have no problem with
25

Robert Amato

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1 telling us about. That wouldn't be good for
2 you and it certainly ain't going to be good
3 for us."

4 Did you say that?

5 A. Yes, pretty close to that.

6 Q. As we are going through the
7 transcript so far, have you seen anything
8 that you don't think you said?

9 A. There are words here and there that
10 may be or may not be what I said. It's hard
11 to pinpoint what exactly but I think
12 everything so far has been pretty close to
13 what I said.

14 Q. About halfway down here we have,
15 "Danny, he has an oath. He is not supposed
16 to have a conflict of interest. You know who
17 his good friends are."

18 Do you see that?

19 A. Yes.

20 Q. Who are you referring to there?

21 A. O'Connell.

22 Q. Who are his good friends?

23 A. Steven Keegan.

24 Q. That's it?
25

1 have no opinion one way or another. I don't
2 think you're the world's worst dirt bag, if
3 that's what you're thinking. I don't think
4 that at all. I think you're a guy that got
5 caught up in some things, you know, to try to
6 do the right thing, try to expedite things
7 for certain people that you feel you may or
8 may not owe a certain, you know, a certain
9 loyalty to and you might have gotten caught
10 up in something here."

12 Did you say that?

13 A. Yes, it sounds pretty much like it.

14 Q. What were you referring to in that
15 instance? What did you mean by that?

16 A. I was alluding to the fact that
17 Keegan was the target of our investigation
18 and we felt -- I felt at that time that he
19 may have been doing the things that he was
20 doing, having these letters sent out,
21 pressuring people to get their sidewalks done
22 at the request of Keegan, who apparently was
23 fairly tight with Milvid from Debut Concrete.

24 Q. Do you still feel that way?

25 A. Yes, I do.

1 that. That's fine with you?

2 A. Yes.

3 Q. Do you know who Paul Gianelli was?

4 A. Yes, I do.

5 Q. The next page, can you just kind of
6 read that over, if you would?

7 A. (Witness complies.)

8 Q. Is that Page 10 of Defendants'
9 Exhibit K?

10 A. Page 10, yes.

11 Q. It's what looks to be a fax.

12 A. That's pretty close to the
13 conversation, yes.

14 Q. Then the last page here?

15 A. That's pretty close to the way it
16 was, yes.

17 Q. Go back to the page before that.
18 The last little couple of things here. The
19 last part of this paragraph.

20 MR. DUNNE: The last
21 paragraph.
22

23 Q. Yes. Where it says "Amato" and
24 starts, "That's what I tried to explain to
25 you." About halfway, maybe a little more, "I

1 told us that Gianelli was not -- that there
2 were -- would be similar problems with
3 Gianelli in that he was representing one of
4 the other defendants that they were working
5 on at the time.

6 Q. There came a point in time where
7 you met on March 7th with Mr. Wirshup at the
8 7-Eleven again with Mr. Iacopelli?

9 A. Right.

10 Q. This looks like a transcript of
11 that recording.

12 Have you listened to the tape of
13 that conversation?

14 A. Yes, that's the tape that's very
15 chopped, very fuzzy. There seems to be
16 pieces on this transcript that --

17 MR. DUNNE: Which one are
18 you referring to? What time frame?

19 MR. BARKET: March 7, 2003
20 at 11:45 p.m.

21 MR. DUNNE: All right.

22 A. It wasn't 11:45 p.m. It must have
23 been 11:45 a.m. First of all, the time is
24 off. It was a.m. It was a rainy day. Dan
25

1 Q. Later on, on the 24th, did you page
2 him again?

3 A. Later on, on the 24th, I don't
4 think so. It's possible, yes, I must have.

5 MR. DUNNE: Let's take a
6 break.

7 (Whereupon, a recess was
8 taken at this time.)

9 Q. Did you call back -- page
10 Mr. Wirshup back on the 24th, second call
11 that day?

12 A. I paged him to call us back, yes,
13 but I was not there when he called back.

14 Q. I see this is with Iacopelli,
15 right?

16 A. Yes.

17 Q. After you spoke with Mr. Wirshup
18 that day, did you go back and ask the DA
19 office or the prosecutors about Paul
20 Gianelli?

21 A. Yes, we did.

22 Q. What was the response?

23 A. Tom Iacopelli and I asked either
24 Prudenti or Nicolino about Gianelli and they
25

A. Yes.

Q. Typically, generally speaking, phone conversations that are recorded are usually pretty clear, is that right?

A. Yes.

Q. Conversations in person are typically more difficult to record, right?

A. Depending on the equipment used, yes.

Q. And depending on the conditions, right?

A. Yes, right.

Q. Phones, ordinarily, there is a line, the line is good. There are just two people talking and no outside noises?

A. Usually, yes.

Q. When you're in person, the recorders, if they are sensitive enough to pickup someone speaking a few feet away often will pick up noise from the surrounding area, right?

A. Background noise, yes, that's correct.

Q. If the recorder is secreted on

was wearing a raincoat.

Q. You have your transcript highlighted. I'm not sure if you did that.

MR. DUNNE: I did it.

Q. I'm not sure if you did that or somebody else did that.

A. I did not do it.

Q. Look at this. Can you tell me if you have a kind of memory of what instances or whether there are problems with this transcript, that is?

A. There are chopped off sentences. There are words in here that I don't think were said. Maybe even complete sentences that I don't think were said.

Q. Can you give me examples?

A. Offhand, I can't. I would have to listen to the tape and go through each.

Q. Have you participated in non-consensual recording of conversations, not over the telephone but conversations?

A. Yes.

Q. Have you ever noticed any problems in doing that, technical problems?

more. I'm not going to go through the whole transcript now because we won't be able to get through it now.

What I want talk to you a little bit about is at this point, March 7th, have you done the test of the sidewalks?

A. I don't know without referring to some other documents.

MR. BARKET: Do you have the photographs that were taken, by chance?

MR. DUNNE: I have it here (handing). These are all in order.

MR. BARKET: Those weren't marked? Just photographs?

MR. DUNNE: Right.

MR. BARKET: Can I mark them or no?

MR. DUNNE: Why don't you mark this book. Put a sticker on the outside of the book.

MR. BARKET: That's okay.

I'll just do photographs.

Q. Take a look at the photographs I

somebody, the recorder itself may be rubbing up against clothing, up against a person's body, things like that, that create interference with the recording, is that right?

A. Sometimes, yes.

Q. In your experience as an investigator using these devices, is it unusual to have a recording done in person that is problematic in terms of picking up all the sentences, getting an accurate transcript of it and catching what everyone says?

MR. DUNNE: I object to the word unusual.

I don't know what that means, but answer that question as best you can.

A. That's not the usual case, no. I would not say that it's not unusual for that to happen. It can happen. I've seen it happen but with the equipment used today, I would say it very rarely happens.

Q. I want to talk to you a little

1 Your leisure, but not at this instance
2 because I want to keep your attention focused
3 on me.

4 Right here we have some dates and
5 times. Do you recognize that handwriting?

6 A. It's not mine.

7 Q. Did you recognize it?

8 A. No.

9 Q. Does that refresh your memory as to
10 when these pictures were taken?

11 A. No.

12 Q. Is there any correlation between
13 those dates and times on the photographs?

14 A. Maybe.

15 Q. Not that you're aware of?

16 A. Not that I'm aware of.

17 Q. The number of installations you
18 investigated, how many instances were there
19 that you found that the work that was done,
20 in your opinion, was not done to
21 specification?

22 A. In almost every instance.

23 Q. In what way was it not done, or did
24 it vary from place to place?
25

1 want to show you that were provided today by
2 your attorney. One of the photographs looks
3 like an individual standing over a curb
4 (handing).

5 Do you know who was doing that?
6 A. (Witness examines photograph.)
7 That's Ray Felice.

8 Q. Is he an expert in concrete or
9 sidewalk installation?
10

11 MR. DUNNE: Objection, but
12 answer as best you can.

13 A. Not to my knowledge.

14 Q. Does he have any experience in
15 that?

16 A. Yes, I believe he does.

17 Q. What experience is that?

18 A. I believe he was in the
19 construction business.

20 Q. What was his employment in March
21 '03?

22 A. Detective.

23 Q. With who?

24 A. Suffolk County Police.

25 Q. Feel free to thumb through those at

Q. In your experience as an investigator, do you look for motive in individuals committing crimes?

A. Sometimes.

Q. What are the instances that you don't look at motive?

A. Maybe if the defendant is crazy.

Q. Is Mr. Wirshup crazy?

A. I don't think so.

Q. Do you think he had a motive for doing what he did?

A. In my opinion, yes.

Q. What was that?

A. I think he wanted to please his superiors.

Q. Please his superiors, being Mayor Keegan?

A. Correct.

Q. Please them in what way?

A. By doing what they asked him to do, which may have been getting work for Debut Concrete.

Q. So as I understand, there is no indication, is there, that Mr. Wirshup

A. It varied from place to place.

Q. How was it that you made these determinations?

A. A matter of simple arithmetic.

Q. How was it that you made the determination?

A. If I'm looking at a bill for this particular sidewalk that says 75 feet of concrete curb in and there is only 30 feet, yet Mr. Wirshup sings off on it, then seems to me somebody got beat out of 40 feet of curbing.

Q. Is that criminal?

A. Yes.

Q. What's the crime?

A. Larceny.

Q. What do you mean?

A. Well, in one instance it may be a mistake but if it happens on three or four different streets in 20 or 30 different locations, I think it's a crime, a community crime, in my opinion.

Q. What's a community crime?

A. Larceny.

Robert Amato 202

A. That's correct.

Q. So in terms of an actual financial profit to himself, the only profit he could have received was keeping his job?

MR. DUNNE: I object.

Answer that as best you can.

I'm objecting to the form.

That actually assumes

something that was not said by the witness.

I'm objecting to the form.

A. We don't know that he was unable to profit from making those decisions.

Q. Here's the way the whole criminal justice system works, I think that we can all think whatever it is that we can think. I'm asking about proof.

Is there any proof that you can offer that Mr. Wirshup profited in some way?

MR. DUNNE: I object because that assumes that that is necessary as a prerequisite to investigate a crime. That's not proper. You're assuming that that's a

Robert Amato 201

profited from this in some way?

MR. DUNNE: I object to the form.

It assumes that that's a requirement, but go ahead and answer as best you can.

A. We were not able to find any -- I'm sorry, can you repeat the question?

MR. BARKET: Can you read that back?

(Whereupon, the requested portion was read by the reporter.)

A. We were unable to show Mr. Wirshup profited in any way other than possibly keeping his job.

Q. When you say you weren't able to show it, did you try?

A. Yes.

Q. Did you look around for unexplained wealth, cash payments, deposits in his checking account, things like that?

A. Basically.

Q. The answer was, as far as you knew, there were no payments to him?

1 to please Mr. Keegan?

2 A. Yes.

3 Q. Is there any proof of that?

4 A. Kept his job.

5 Q. That's it?

6 A. Yes.

7 Q. When was Mayor Keegan -- what was
8 his term in office, do you know?

9 A. No, I really don't know the dates
10 on that. He was out of office by the time we
11 did this investigation.

12 Q. How about when the sidewalks were
13 being installed?

14 A. He was the mayor.

15 Q. After he left office, did

16 Mr. Wirshup keep his job?

17 A. Yes, he did.

18 Q. Up until?

19 A. Sometime during our investigation.

20 Q. During that time -- by the way,
21 Detective Felice did the investigation into
22 the sidewalks; is that right?

23 A. No.

24 Q. Who did -- who did the
25

1 prerequisite. So, therefore, if I
2 can't show he profited, then there
3 must not have been a crime.

4 I object to that. That
5 assumes something that is not the
6 case.

7 MR. BARKET: I think you
8 still get to answer the question.

9 MR. DUNNE: I'm objecting to
10 it.

11 Rephrase it. It assumes
12 something that is not correct and
13 I'm not permitting him to answer a
14 question with an incorrect
15 assumption in it.

16 Q. Is there any proof that Mr. Wirshup
17 profited from signing the forms, approving
18 the payments to Debut Concrete?

19 MR. DUNNE: That question
20 you may answer.

21 A. No, there was no proof.

22 Q. At all?

23 A. No.

24 Q. So your theory is that he did this
25

1 Robert Amato 206

2 guess, do you recognize that person?

3 A. Yes.

4 Q. Is it Detective Felice?

5 A. That's correct.

6 Q. I notice it looks kind of dug out
7 around the sidewalk.

8 Did you have to actually take out
9 part of the street and dig down to see where
10 the sidewalks were?

11 A. Yes, we did.

12 MR. BARKET: Let's stop.

13 It's 4:30.

14 -000-

15 (Whereupon, the examination
16 of Robert Amato was concluded at
17 4:30 p.m.)

18
19
20 ROBERT AMATO

21 Subscribed and sworn to
22 before me this _____ day
23 of _____, 2007.

24
25 NOTARY PUBLIC

1 Robert Amato 205

2 investigation of the actual installation of
3 the sidewalk?

4 A. What do you mean?

5 Q. How did you determine -- did you
6 hire a firm, did you do it yourselves? How
7 did you all actually, physically investigate
8 the installation or how the sidewalks were
9 installed and the curb?

10 A. The initial investigation was done
11 by us and later on the Village hired
12 professionals.

13 Q. Later on before or after the
14 indictment?

15 A. You mean when the professionals
16 look at it?

17 Q. Yes.

18 A. I think it was after the indictment
19 but I'm not sure.

20 Q. Who, if you know, testified about
21 the installation of the sidewalks in front of
22 the Grand Jury?

23 A. I don't know.


24 Q. Is that photo that depicted
25 somebody holding a ruler, a tape measure, I

C E R T I F I C A T E

I, HOLLY DALOIA, a Notary Public
within and for the State of New York, do
hereby certify:

That the witness(es) whose testimony
is hereinbefore set forth was duly sworn by
me, and the foregoing transcript is a true
record of the testimony given by such
witness(es).

I further certify that I am not
related to any of the parties to this action
by blood or marriage, and that I am in no way
interested in the outcome of this matter.



HOLLY DALOIA

I N D E X

<u>WITNESS</u>	<u>EXAMINATION BY</u>	<u>PAGE</u>
Robert Amato	Mr. Barket	98

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A P P E A R A N C E S:

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BY: RICHARD DUNNE, ESQ.

ALSO PRESENT:

Daniel Wirshup

Tom Iacopelli

Raymond Felice

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

DANIEL WIRSHUP,

Plaintiff,

-against-

SUFFOLK COUNTY POLICE DEPARTMENT,
SUFFOLK COUNTY DISTRICT ATTORNEY,
THOMAS J. SPOTA, SUFFOLK COUNTY
DISTRICT ATTORNEY'S OFFICE, ASSISTANT
DISTRICT ATTORNEYS JANE and JOHN DOE
"I" - "S," ASSISTANT DISTRICT ATTORNEYS
KEVIN WARD, JOHN SCOTT PRUDENTI, and
CHRISTOPHER NICOLINO, DETECTIVES/POLICE
OFFICERS TOM IACOPELLI, ROBERT AMATO,
and RAYMOND FELICE, DETECTIVES/POLICE
OFFICERS JOHN and JANE DOE "I" - "S,"
and THE COUNTY OF SUFFOLK,

Defendants.

666 Old Country Road
Garden City, New York

May 31, 2007
11:10 a.m.

CONTINUED EXAMINATION BEFORE TRIAL

FROM JANUARY 19, 2007 of ROBERT AMATO, one of
the Defendants in the above-entitled action,
held at the above time and place, taken
before Holly Daloia, a shorthand reporter and
Notary Public of the State of New York.

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COPY

RECEIVED
JUL 05 2007
BRUCE A. BARKET

(Notice was marked as Plaintiff's Exhibit 2 for identification, as of this date.)

R O B E R T A M A T O ,
the witness herein, having been previously duly sworn by a Notary Public of the State of New York, was examined and testified as follows:

EXAMINATION BY

MR. BARKET:

Q. Please state your name for the record.

A. Robert Amato.

Q. Please state your address for the record.

A. 200 Center Drive, Riverhead, New York 11901.

Q. Good morning again.

You initially appeared for deposition on January 12th?

MR. DUNNE: 12th and 19th.

A. I believe so.

S T I P U L A T I O N S

IT IS HEREBY STIPULATED AND AGREED by and between the attorneys for the respective parties herein, that filing, sealing and certification be and the same are hereby waived.

IT IS FURTHER STIPULATED AND AGREED that all objections, except as to the form of the question shall be reserved to the time of the trial.

IT IS FURTHER STIPULATED AND AGREED that the within deposition may be signed and sworn to before any officer authorized to administer an oath, with the same force and effect as if signed and sworn to before the Court and that a copy of this examination shall be furnished without charge to the attorney representing the witness testifying herein.

Robert Amato

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over. Meaning the tape transcripts, the photographs and the statements. That's what we produced and that's what he reviewed prior to the deposition.

MR. BARKET: I'm sorry.

MR. DUNNE: That's by counsel.

Q. My question is for -- is it Detective Amato?

A. Yes, Amato.

Q. Were you told to bring anything to the deposition?

A. No, I wasn't told to bring anything to the deposition.

Q. Were you asked to bring anything to the deposition?

A. Most of the stuff you're talking about is in the file.

Q. It may or may not be. I'm just curious and asking whether or not you were instructed or asked or requested to bring anything to the deposition.

A. I wasn't instructed to bring

Robert Amato

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Q. Initially. That was adjourned from January 5th, which was the original scheduled date of that, right?

A. I believe so, yes.

Q. I think that was done pursuant to a notice for examination for trial. Do you recall receiving a document like that?

MR. DUNNE: No, he wouldn't get that. I simply make the phone calls to these guys. You and I were playing schedule gymnastics.

Q. Take a look at what I marked as Plaintiff's Exhibit 2 (handing).

Did you ever see that document before?

A. (Witness examines Plaintiff's Exhibit 1.)

No.

Q. When you were notified to come to the deposition, did your attorney or anyone tell you to bring anything with you?

A. No.

MR. DUNNE: Other than the documents he reviewed and we went

1
2 A. Whoever hired them. Probably the
3 Village.

4 Q. Their use in the investigations --
5 let me go back to that.

6 The Village did something on their
7 own that I don't care about. What I care
8 about is whether or not the district
9 attorney's office used experts in this
10 investigation. Let's go back to that
11 question and say yes, they did or no, they
12 didn't.

13 A. I can't honestly answer that
14 question yes or no. I don't know.

15 Q. So as far as you know, there
16 weren't any experts used by the district
17 attorney's office in connection with this
18 investigation; is that right?

19 A. That's not what I said. I said I
20 don't know if they used any experts.

21 Q. But as far as --

22 A. Not to my knowledge.

23 Q. I briefly touched upon this last
24 time, I think. You're not in any way an
25 expert at the installation of curbs or

1 anything that we didn't have in the file,
2 which was the transcript of the -- the
3 alleged transcript of the tape.

4 Q. So no one showed you a copy of a
5 document they marked as Plaintiff's
6 Exhibit 2?

7 A. No.

8
9 Q. Did your office, the district
10 attorney's office, to your knowledge, employ
11 any outside experts in connection to this
12 investigation?

13 A. There were experts utilized, but I
14 don't know if they were employed by the
15 district attorney's office or the Village of
16 Patchogue.

17 Q. Who was the experts?

18 A. I don't know. Couldn't tell you.

19 Q. They must be written down
20 somewhere, yes?

21 A. Probably.

22 Q. Where?

23 A. I had no dealings with them.

24 Q. Who would have dealt with the
25 experts?

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2 drove in the same car.

3 THE WITNESS: We did.

4 MR. BARKET: Thank you.

5 -000-

6 (Whereupon, the examination

7 of Robert Amato was concluded at

8 11:17 a.m.)

9
10
11
12 ROBERT AMATO

13
14 Subscribed and sworn to
15 before me this _____ day
16 of _____, 2007.

17
18 NOTARY PUBLIC

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2 concrete or anything like that, are you?

3 A. No, but I can read a ruler.

4 Q. Okay. Congratulations. I'm happy
5 for you. Not a high bar but I'm glad you
6 cleared it.

7 Is anyone employed with the
8 district attorney's office -- is anyone
9 connected with this investigation hold
10 themselves out as any expert in the areas
11 relevant to this investigation?

12 A. Not to my knowledge.

13 Q. Did you review anything before
14 coming to the deposition today?

15 A. No, I did not.

16 MR. BARKET: I think we made
17 a couple of requests over the
18 course of January 5th and
19 January 12th, and I'm going to end
20 your deposition now, subject to
21 those things being produced and
22 subject to the other document
23 production request we made being
24 resolved.


25 I don't know if you guys

C E R T I F I C A T E

I, HOLLY DALOIA, a Notary Public
within and for the State of New York, do
hereby certify:

That the witness(es) whose testimony
is hereinbefore set forth was duly sworn by
me, and the foregoing transcript is a true
record of the testimony given by such
witness(es).

I further certify that I am not
related to any of the parties to this action
by blood or marriage, and that I am in no way
interested in the outcome of this matter.



HOLLY DALOIA

I N D E X

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